

Право. Людина. Довкілля

Науково-практичний журнал

Том 15, № 3



ISSN 2663-1350

E-ISSN 2663-1369

Засновник:

Національний університет біоресурсів і природокористування України

Рік заснування: 2010

*Рекомендовано до друку та поширення
через мережу Інтернет Вченою радою*

*Національного університету біоресурсів і природокористування України
(протокол № 1 від 15 серпня 2024 р.)*

Державна реєстрація:

Ідентифікатор медіа R30-02295.

Рішення Національної Ради України
з питань телебачення і радіомовлення
№ 1795, протокол № 31 від 21.12.2023 р.

Журнал входить до переліку наукових фахових видань України

Категорія «Б». Галузь наук – юридичні, спеціальності – 081 «Право»,
293 «Міжнародне право»
(наказ Міністерства освіти і науки України від 17 березня 2020 р. № 409)

Журнал представлено у міжнародних наукометричних базах даних, репозитаріях та пошукових системах:

Google Scholar,
Національна бібліотека України імені В. І. Вернадського, BASE, Dimensions,
Ulrichsweb Global Serials Directory, Zenty, Open Ukrainian Citation Index, DOAJ

Адреса редакції:

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Law. Human. Environment

Scientific and practical journal
Volume 15, No. 3



ISSN 2663-1350
E-ISSN 2663-1369

Founder:

National University of Life and Environmental Sciences of Ukraine

Year of foundation: 2010

*Recommended for printing and distribution
via the Internet by the Academic Council
of National University of Life and Environmental Sciences of Ukraine
(Minutes No. 1 of August 15, 2024)*

State Registration:

Media identifier R30-02295.

Decision of the National Council
of Television and Radio Broadcasting of Ukraine
No. 1795, Minutes No. 31, dated 21.12.2023.

The journal is included in the list of Scientific Professional Publications of Ukraine
Category "B". Branch of sciences – legal, specialties – 081 "Law", 293 "International Law"
(order of the Ministry of Education and Science of Ukraine of March 17, 2020, No. 409)

**The journal is presented international scientometric databases, repositories
and scientific systems:** Google Scholar, Vernadsky National Library of Ukraine,
BASE, Dimensions, Ulrichsweb Global Serials Directory, Zenty,
Open Ukrainian Citation Index, DOAJ

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UDC 346.6

DOI: 10.31548/law/3.2024.09

Legal mechanisms for improving the efficiency of accounting in the social security sector: Analysis of the regulatory environment and recommendations for improvement

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Article's History:

Received: 01.06.2024

Revised: 18.07.2024

Accepted: 15.08.2024

Abstract

The purpose of this study was to analyse legal accounting instruments, with a focus on the social security sector, by identifying and assessing the key problems affecting the effectiveness of their use. The study analysed Ukrainian legislation governing accounting and taxation and compared it with the legal systems of Germany, the UK, and the US. The study examined the harmonisation of national standards with international ones, specifically focusing on the challenges faced by small and medium-sized enterprises due to inadequate government support and the inconsistency of tax legislation with international requirements. The findings of the study showed that small and medium-sized enterprises in Ukraine are falling behind in the implementation of international standards because of the lack of financial and technical resources. It was also found that many enterprises have no access to qualified personnel capable of working with international standards, which further complicates their transition to international reporting standards. Statistics show that only 35% of medium-sized and 20% of small enterprises in Ukraine have implemented international

Suggested Citation:

Borshch, M. (2024). Legal mechanisms for improving the efficiency of accounting in the social security sector: Analysis of the regulatory environment and recommendations for improvement. *Law. Human. Environment*, 15(3), 9-30. doi: 10.31548/law/3.2024.09.



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financial reporting standards, which is significantly lower than in Germany, the UK, and the US, where this rate is much higher due to better legislation and government support. Furthermore, insufficient automation of accounting processes and unified reporting requirements in the social security sector complicate the management of pension payments and other social obligations. The study found that insufficient control by government agencies over compliance with international standards reduces the transparency of financial reporting, which leads to a general setback in the competitiveness of Ukrainian enterprises in international markets. The study found a lack of coordination between enterprises and social funds, which increases the risk of delays in payments and reporting errors and requires improved accounting processes to increase the transparency and stability of the social security system. The findings underscore the necessity of reforming legislation to harmonise national standards with international ones and improve accounting efficiency, which will help attract foreign investment and increase the competitiveness of Ukrainian enterprises

Keywords: financial reporting; harmonisation of law; audit; international investments; state support; economic integration; tax law

Introduction

The development of Ukraine's economy in the context of globalisation and integration into international markets requires considerable adaptation of accounting standards to international requirements, which will ensure transparency of financial statements and investor confidence. Implementation of International Financial Reporting Standards (IFRS) is a key condition for increasing the competitiveness of Ukrainian enterprises, including small and medium-sized ones, on the global stage. The principal challenges in this area relate to the integration of national standards with international requirements, the low level of implementation of modern technologies in accounting processes, and the lack of professional skills. These obstacles create further barriers to the effective modernisation of financial reporting. Furthermore, the social security sector, which includes pension payments, social support, and other types of payments to citizens, requires special attention. Imperfect accounting in this area hinders the efficient allocation of public resources

and reduces the transparency of the use of budget funds, which undermines the trust of citizens and foreign partners. The integration of international standards in this area can improve the quality of financial control, which is essential both for ensuring social stability and for increasing the efficiency of the use of budget funds.

Insufficient harmonisation of national standards with IFRS is an important problem faced by Ukrainian enterprises. G. Likhonosova and A. Verbytska (2023) and O. Yarmolyuk *et al.* (2021) noted the significance of implementing international standards for large enterprises, but the issue is still relevant for small and medium-sized businesses that lack sufficient resources to adapt. It is more challenging for small businesses to integrate into the international financial system due to limited access to financial and technical resources. On the other hand, the study highlighted the need to strengthen government support and create conditions for a more even integration of international standards across multiple sectors of

the economy, particularly through tax incentives and financial aid to SMEs.

A major obstacle to the harmonisation of national standards with international standards is the lack of government support for small and medium-sized businesses in implementing IFRS. Z. Zadorozhnyi and V. Yasyshena (2019) emphasised the need for such support, but their study mainly focused on large companies, leaving aside the problems of smaller enterprises. While large enterprises are better positioned to implement international standards due to access to financial and technical resources, SMEs continue to be vulnerable due to limited financing opportunities, lack of skilled personnel, and lack of adequate infrastructure to transition to new standards. This creates further challenges for their adaptation, especially considering that this business segment is the most dynamic and significantly affects the country's economy.

Automation of accounting processes is also a vital element of improving accounting efficiency. K. Bagrii (2021) showed that automation of accounting processes substantially simplifies accounting operations and facilitates the implementation of international standards, especially in the context of globalisation. However, K. Bagrii's (2021) study focused on technological aspects and did not adequately address legal and organisational issues, which limits the possibility of effective automation in small and medium-sized enterprises. The approach also underestimates the significance of the legislative framework for the introduction of automated systems, which is critical to ensuring the integration of small enterprises into international financial systems.

Another major problem is the insufficient qualification of accounting professionals, particularly those working in small and medium-sized enterprises. L. Polyatykina (2023) stressed the

significance of upskilling accounting professionals for successful IFRS integration, but her study focused mainly on large enterprises, while SMEs require more attention and support. The lack of qualified personnel is one of the key obstacles to the effective implementation of international standards in these enterprises, as the lack of knowledge and skills complicates adaptation to new requirements. Furthermore, small businesses rarely have the resources to train and retrain their employees independently, which reduces their international competitiveness.

The problem of harmonisation of tax and accounting also persists for Ukrainian companies. S. Stender (2023) highlighted the challenges posed by the mismatch between tax legislation and IFRS, which complicates accounting for businesses with international operations. Tax regulations in Ukraine often contradict the requirements of international financial reporting standards, which leads to the need to maintain parallel accounting systems. Although the researcher proposed some changes to the national tax legislation, his approach focuses more on large companies, while SMEs need specific solutions. This suggests the need for harmonisation of tax and accounting to ensure transparency of financial reporting, which is crucial for companies seeking to operate in international markets.

The issue of government control over compliance with international standards is another significant aspect. D. Kondratenko (2019) showed that government agencies do not sufficiently monitor the implementation of the International Financial Reporting Standard (IFRS) among Ukrainian enterprises, especially small and medium-sized ones. This results in many companies avoiding compliance with international requirements, which negatively affects their reporting and ability to attract investment. However, the cited study does not

consider the problems faced by small enterprises, which require more attention and support from the state. The lack of control and incentives for enterprises results in a low rate of implementation of international financial reporting standards, which worsens the transparency of the economy and reduces its investment attractiveness.

Thus, the study of scientific literature indicates the necessity of a more detailed investigation of legal mechanisms in the field of accounting, especially regarding small and medium-sized enterprises. The purpose of this study was to comprehensively analyse the legal mechanisms for regulating social security accounting on the example of Ukraine, considering the key issues that influence their effectiveness. The principal objectives included identifying legal obstacles to the implementation of international financial reporting standards, analysing the current Ukrainian legislation and its compliance with international requirements, and developing recommendations for improving the legal framework to enhance the efficiency of accounting

Materials and Methods

The study systematically compared the legal provisions governing accounting in Ukraine with those of other countries, including Germany, the United Kingdom, and the United States. The comparison was based on the analysis of legislative acts, such as the Commercial Code of Germany (1897), the Companies Act of the United Kingdom (2006) and US accounting principles (Generally Accepted Accounting..., 2024). For the United States, along with Generally Accepted Accounting Principles (GAAP, 2024), the study paid special attention to the Social Security Act of the United States (1935), which sets out requirements for accounting for social benefits and pensions. The comparison revealed similarities and

differences in the approaches to legal regulation of accounting in Ukraine and countries with more developed economies. The study examined accounting requirements in these countries, financial reporting and control systems, which helped to identify the strengths and weaknesses of Ukrainian legislation in the context of international standards. Particular attention was paid to the interaction of these provisions with international financial reporting standards.

In terms of analysing Ukrainian legislation, the study focused on the Law of Ukraine No. 996-XIV "On Accounting and Financial Reporting in Ukraine" (1999), which is the principal document in this area and defines the basic rules for accounting at enterprises, institutions, and organisations, including those providing social benefits. The provisions of the Tax Code of Ukraine (2010), which governs tax accounting and defines the principles of interaction with financial and tax authorities, also play an integral role. The Law of Ukraine No. 2464-VI "On the Collection and Accounting of the Single Contribution for Mandatory State Social Insurance" (2010) was studied to analyse the single contribution accounting mechanisms that ensure control over the receipt and distribution of funds for pension and social benefits. Furthermore, the National Accounting Standards (2024) were reviewed, which are a key tool for standardising accounting according to national and international requirements. The National Regulation (Standard) of Accounting No. 26 (2018) was highlighted, which helped to analyse and systematise social liabilities, including pensions, social benefits, and other payments in the context of building a transparent accounting system. The study also analysed the provisions of the Law of Ukraine "On Audit Activity" (2018), which regulates the activities of auditors and audit firms, defines their obligations and

rights, and sets out the requirements for the audit of financial statements. This helped to establish how Ukrainian legislation is harmonised with International Financial Reporting Standards and how these standards are integrated into national practice. The study also examined the Directive No. 2013/34/EU (2013) affecting the regulation of reporting in the European Union. These documents were analysed to assess the extent to which Ukrainian legislation follows international standards and to identify areas for improvement.

To analyse the statistical data, official resources were used, such as the State Statistics Service of Ukraine (2024), which provides up-to-date data on the financial condition of enterprises, as well as data from the National Bank of Ukraine (2024) on financial stability and macroeconomic indicators. The data for 2020-2024 were analysed, which allowed assessing the current state of accounting in Ukraine. Furthermore, international resources, such as the World Bank (2024) and the International Monetary Fund (2024), were used to provide a comparative analysis of global economic trends and their impact on the legal regulation of accounting.

Results

Accounting is a key element of any country's economic system, as it ensures transparency of financial reporting and facilitates investment. In this context, accounting for social security, including pensions and social benefits, is also significant, as transparent reporting in this area increases the confidence of citizens and international partners in the country's financial system. In Ukraine, the legal regulation of accounting is based on national laws and international standards, including IFRS. However, despite the reforms, a series of problems persist in the application and implementation of these standards

in practice, which requires improvement of the regulatory environment.

Ukrainian legislation regulating accounting underlies the functioning of the accounting system at the national level. One of the key acts in this area is the Law of Ukraine Law of Ukraine No. 996-XIV (1999). According to its provisions (Articles 1-5), companies are obliged to keep accounting records and prepare financial statements that must follow either national accounting standards (NAS) or IFRS, depending on the type of company. This law plays a key role in harmonising Ukraine's accounting system with international standards, which is a crucial step in Ukraine's integration into the global economy.

However, although the legislation is aimed at harmonisation, its practical implementation is fraught with a series of issues. Article 12 of the Law of Ukraine No. 996-XIV (1999) states that IFRS is mandatory for public companies, banks, insurers, and other large enterprises. At the same time, medium and small enterprises can choose between NAS and simplified reporting forms. This creates further challenges for organisations that provide pension and social support, as they must not only ensure compliance with the standards, but also effectively account for the use of budgetary funds to avoid deficits and ensure financial stability. The choice between NAS and IFRS creates added complexity to the harmonisation of the Ukrainian accounting system with international standards, as national standards do not always fully conform to IFRS requirements. This is particularly true for companies seeking to attract foreign investment or enter international markets, where the use of IFRS is a prerequisite for interacting with international partners (Wa-jeetongratana, 2020).

For example, according to Article 11 of the Law of Ukraine No. 996-XIV (1999), enterprises

are entitled to determine their accounting policies independently, which gives them a choice of accounting methods. However, this freedom leads to inconsistencies between the standards used by the various categories of enterprises, as presented in Table 1. The lack of clear guidance

on the implementation of IFRS for small and medium-sized enterprises leads to uneven application, as evidenced by the State Statistics Service of Ukraine (2024). This discrepancy calls for improvements in legislation to ensure greater coverage of enterprises with IFRS requirements.

Table 1. Use of by enterprises in Ukraine in 2022

Indicator	Large enterprises	Medium-sized enterprises	Small enterprises
Enterprises using IFRS	58%	35%	20%
Enterprises using NAS	30%	45%	65%
Enterprises subject to mandatory audit	100%	65%	20%
Enterprises using simplified accounting systems	0%	20%	70%

Source: developed by the authors of this study based on data from the State Statistics Service of Ukraine (2024)

Article 6 of the Law of Ukraine No. 996-XIV (1999) states that violations of accounting and financial reporting requirements may result in sanctions. However, the absence of clear and effective sanctions complicates the enforcement of standards, particularly in the social security sector, where accurate reporting is critical to ensuring adequate funding of pensions and social benefits. Compared to international systems, such as GAAP in the US (Generally Accepted Accounting..., 2024), which clearly defines mechanisms for liability for violations of accounting standards, Ukrainian legislation needs to be strengthened, and more effective sanctions introduced.

Apart from the Law of Ukraine No. 996-XIV (1999), the Law of Ukraine No. 2258-VIII "On Audit Activity" (2018) plays an active role in regulating accounting and financial reporting. According to Article 3 of this law, audits are mandatory for public joint-stock companies, banks, insurers, and other large business entities. However, small and medium-sized enterprises are not subject to mandatory audit, which reduces the level of control over the reliability of their

financial statements. According to Article 6 of the law, audits must be conducted following international auditing standards, which improves the quality of audits and the compliance of reporting with international requirements. However, limiting the mandatory audit to small and medium-sized enterprises does not allow for sufficient control over their financial statements.

Additionally, Order of the Ministry of Finance of Ukraine No. 1213 (2006), which approves the National Accounting Regulations (Standards), is a substantial factor influencing accounting policies at enterprises. These standards are mandatory for those companies that are not subject to mandatory application of IFRS. However, NAS often do not follow international standards, which creates barriers for Ukrainian enterprises in entering international markets (Polyatykina, 2023). An essential step in this regard would be the harmonisation of the NAS with IFRS, which would ensure a unified approach to accounting and increase the transparency of financial reporting.

Considering the specifics of the study, it is worth highlighting the National Regulation

(Standard) of Accounting No. 26 (2018), which governs the accounting and disclosure of all types of employee benefits, including salaries, social benefits, and pension accruals in financial statements. The standard requires the classification of benefits into current, non-current, and other liabilities, and sets out how they should be disclosed in the financial statements of companies. However, the problem with this provision lies in the lack of flexibility of the standard for companies with diverse organisational structures, which sometimes leads to reporting errors. This underscores the need to improve the standard to better meet the requirements of modern accounting and increase transparency in the management of social liabilities.

The Tax Code of Ukraine (2010) also plays a significant role in the context of accounting regulation, especially in relation to transfer pricing. According to Article 39, the methods of measuring income and expenses in the transfer pricing process are governed by specific rules applied to control transactions between related parties. However, these methods may not always be consistent with IFRS, especially when measuring the fair value of assets, income, and expenses in international transactions. This can lead to inconsistencies in the financial statements that reduce the transparency of such transactions and pose challenges for entities operating in international markets (Kameel & Festus, 2023).

Furthermore, the inconsistency between the provisions of the Tax Code of Ukraine (2010) and IFRS may complicate reporting for companies that have to follow both national tax requirements and international standards. This often requires parallel accounting, which increases the administrative burden on companies and increases the risk of reporting errors. This situation can also negatively affect interaction with foreign partners who

expect transparency and compliance with international standards.

In the area of social security, the Law of Ukraine No. 2464-VI "On the Collection and Accounting of the Single Contribution for Mandatory State Social Insurance" (2010) is illustrative, as it establishes the obligation of enterprises, institutions, and individuals to keep accounting records of the single contribution for financing pension and social benefits. According to Article 4 of this Law, both legal entities and individuals using hired labour are liable for the tax payment, which makes them responsible for the correctness of accounting and prompt payment of taxes. This ensures transparency of social obligations of enterprises and control over their performance. At the same time, the Law of Ukraine No. 2464-VI (2010) has some problematic aspects, including the unified requirements for all payers, regardless of their size or financial capacity, which may create barriers for small businesses to meet their accounting obligations. Furthermore, the Law requires strict adherence to reporting deadlines and forms, which often complicates adaptation to changes in social and labour legislation, increasing the risk of reporting errors and penalties for taxpayers.

An essential element in this area is the Law of Ukraine "On Prevention and Counteraction to Legalisation (Laundering) of the Proceeds of Crime" (2019). It obliges businesses, including financial institutions, to ensure transparency of financial reporting to prevent financial crime. However, the lack of clear mechanisms for controlling small and medium-sized enterprises hinders compliance with these requirements. In this context, it is necessary to improve the interaction between legal requirements and general accounting standards to strengthen control over their observance. This is particularly true for the

implementation of the recommendations of the International Financial Action Task Force (Financial Action Task Force, 2024), which contributes to the transparency of companies' reporting.

Particular attention should be paid to the Law of Ukraine No. 1877-IV "On State Support of Agriculture of Ukraine" (2019), which establishes separate rules for accounting and reporting of agricultural enterprises and is of substantial importance for social security, as some agricultural enterprises make social payments, particularly to employees in the form of pension contributions or social benefits. The simplified accounting system for small agricultural enterprises is adapted to the specifics of their activities, but this approach does not facilitate compliance with international standards, which also negatively affects the reporting of social obligations to employees (Zadorozhnyi & Yasyshena, 2019). Businesses that export or cooperate with foreign investors should introduce mandatory application of IFRS. This will help agricultural companies improve their image in the international market and attract more foreign investment, as international partners prefer companies with transparent and standardised financial reporting.

Also worth mentioning is the Law of Ukraine No. 922-VIII "On Public Procurement" (2015), which regulates financial reporting requirements for companies taking part in public tenders. While the law requires the submission of reliable financial statements, it does not introduce mandatory use of IFRS, which could increase the transparency of financial transactions. It would be advisable to make international financial reporting standards mandatory for companies that enter into significant government contracts. This would increase confidence in the financial statements of public procurement participants and reduce the risks of corruption and dishonest financial practices.

Accounting regulation in Germany is based on a well-structured legal framework that ensures a prominent level of transparency and consistency in financial reporting. According to Article 238 of the German Commercial Code (1897), all companies are obliged to keep accurate and truthful accounts, which increases the reliability of the data in financial statements. According to Article 242, companies must submit an annual financial report consisting of a balance sheet and a profit and loss account, even if they are small companies. This creates a high degree of financial transparency, as even small enterprises must report their financial performance. However, small enterprises can use simplified reporting forms, which gives them flexibility in accounting, but also reduces transparency (Wajeetongratana, 2019). This can be considered a disadvantage of the German system, as the difference in requirements for small and large enterprises creates heterogeneity in reporting approaches, which can affect the availability of information for investors and regulators.

Article 316 of the Commercial Code of Germany (1897) stipulates that large enterprises must undergo a statutory audit, which ensures high reliability of their financial statements and increases market confidence. According to Eurostat (2024), about 98% of large enterprises in Germany are subject to statutory audits, which ensures increased transparency of their operations and greatly increases investor confidence. In Ukraine, according to Article 12 of the Law of Ukraine No. 996-XIV (1999), an audit is mandatory only for public companies and large enterprises. Compared to Germany, the Ukrainian system involves less stringent control over compliance with audit standards. According to the State Statistics Service of Ukraine (2024), only 65% of medium-sized enterprises are audited, which is much lower than in Germany. The introduction

of mandatory audits for medium-sized enterprises in Ukraine, following the example of Germany, could substantially increase the transparency and accountability of medium-sized businesses.

In the UK, accounting and financial reporting are regulated by the UK Companies Act (2006), which requires all companies, regardless of their size, to submit annual financial statements. According to Article 394 of the Act, every company must file financial statements, including a balance sheet, income statement, and notes to the financial statements. This approach ensures transparency of financial information, even for small companies, which is important for attracting investors and increasing confidence in their operations. In Ukraine, according to the Law of Ukraine No. 996-XIV (1999), small enterprises can submit simplified financial statements, which reduces the level of detail in their financial indicators. This helps to reduce accounting costs, but at the same time prevents investors from obtaining complete information about the financial standing of such companies.

Furthermore, the UK has a flaw in its legislation that exempts small businesses from statutory audit. Thus, according to Article 477 of the UK Companies Act (2006), small businesses can avoid an audit if their financial performance does not exceed the statutory limits. This creates risks for investors, as the absence of audit control reduces the level of confidence in the financial statements of such enterprises (Herrera & Mayka, 2020). Ukraine has a comparable problem, as small businesses can also avoid audits and use simplified reporting forms, which negatively affects the transparency of their operations. This not only reduces the transparency of their operations but can also hinder the control over the correct accounting of social payments, including pension contributions, which is crucial for the

coordination of enterprises with social funds and in the context of attracting state subsidies. To improve the situation, mandatory audits should be introduced for small businesses that have international contracts or work with large clients.

The active application of IFRS is particularly characteristic of the UK. According to Article 395 of the UK Companies Act (2006), public companies must use IFRS, which ensures a high degree of transparency in their operations and facilitates integration into international markets. According to the IFRS Foundation (2024), about 85% of public companies in the UK use IFRS, which considerably increases their ability to attract foreign investment and meet international standards. According to the State Statistics Service of Ukraine (2024), this figure among large enterprises is only 58%, which indicates the need for wider application of IFRS, especially among medium and small enterprises that conduct international operations or attract foreign investors.

Generally Accepted Accounting Principles (GAAP) (2024) form the basis of the US system and are characterised by great detail and rigour in financial reporting requirements. According to the Securities Exchange Act of USA (1934), public companies must apply GAAP, and their financial statements are subject to mandatory audit. According to the Securities and Exchange Commission (2024), about 95% of public companies in the US use GAAP, which ensures transparency of their operations and investor confidence. However, GAAP is criticised for its rigidity and complexity compared to IFRS, which is a more flexible standard. The Ukrainian system, where the National Accounting Standards (NAS) (2024) are less detailed and do not have a mandatory structure for medium-sized enterprises, does not meet international requirements to the same extent as GAAP or IFRS. According to the State Statistics

Service of Ukraine (2024), only 35% of medium-sized and 20% of small enterprises in Ukraine apply IFRS, which limits their competitiveness in international markets.

The centralised social security system in the United States, based on the Social Security Act of USA (1935), allows for precise control of contributions and benefits through unique Social Security Numbers (SSNs), which minimises errors and abuse through digital data processing. Financial transparency plays a key role: assets are accumulated in special funds that are invested in government bonds, and their use is subject to regular audits and reporting, which is regulated in detail by Articles 202-207 of Title II of the Social Security Act of the United States (1935). This system ensures automated reporting, reduces administrative costs, and rapidly adapts to changes in the social sphere. In Ukraine, the Law of Ukraine No. 2464-VI (2010) performs analogous functions, but its implementation is constrained by the complexity of administrative procedures and insufficient automation. Although the Ukrainian system also requires centralised accounting of contributions, the lack of flexible mechanisms to control their use reduces the efficiency of social benefit management. Compared to the US model, which better integrates modern technologies, the Ukrainian system could be improved to increase transparency and efficiency in the social security sector.

The integration of IFRS is a milestone for Ukraine on its path towards increased transparency of financial reporting and integration into the global economy. This process opens more opportunities for Ukrainian companies, but at the same time creates many challenges related to the adaptation of national legislation, training of specialists, and ensuring that Ukrainian companies follow international standards. One of the prin-

cipal standards that facilitates the transition to IFRS is IFRS 1 (2021), which requires entities that have not previously used IFRS to prepare their reports following the new standards. For many Ukrainian companies, especially small and medium-sized ones, the transition to IFRS 1 is quite challenging due to lack of experience and resources. Many companies face a shortage of qualified specialists and relevant software, which complicates the transition to IFRS. This underscores the significance of developing government policies to support small and medium-sized enterprises in their adaptation to international standards. According to Article 12 of Law of Ukraine No. 996-XIV (1999), IFRS is mandatory only for large enterprises and public companies, which limits the adoption of these standards by SMEs, where the transition is still voluntary and poorly regulated.

Specifically, problems arise in connection with the application of IFRS 9 (2018), which establishes principles for accounting for loans, credits, and other financial instruments. This standard ensures accuracy and transparency in the accounting for transactions with financial instruments, but its implementation in Ukraine is facing difficulties due to the mismatch between the NSAU and IFRS 9 requirements. In Ukraine, companies that are active in international markets or interact with foreign investors are forced to implement IFRS to meet international requirements. However, the lack of clear guidelines for small and medium-sized businesses creates major difficulties in applying this standard, which affects the quality of their financial statements (Bagrii, 2021). According to Article 11 of the Law of Ukraine No. 996-XIV (1999), enterprises are entitled to choose their accounting policies independently, but in the absence of sufficient government support, this complicates the standardisation of their financial statements.

IFRS 16 (2016), which governs the accounting for leases, also poses certain challenges in the Ukrainian context. This standard requires companies to recognise all leases on their balance sheet, which increases the transparency of financial statements and facilitates the assessment of the financial position of companies. However, small enterprises in Ukraine often do not follow this standard due to the lack of clear regulatory requirements (Aničić *et al.*, 2023). Ukrainian legislation does not have sufficiently stringent requirements for the accounting for lease agreements, which allows many companies to avoid fully recognising lease liabilities on their balance sheets. This poses a problem for foreign investors and partners who expect full transparency in the financial statements of Ukrainian companies, especially those operating in international markets.

One of the key documents governing international accounting standards is the International Accounting Standards Convention (2020) adopted by the United Nations. The Convention obliges member states to gradually implement international standards to ensure transparency and unification of financial reporting. However, the document provides not only general requirements for financial reporting transparency but also standards for social security reporting. This is crucial for companies that provide pension payments and other forms of social benefits, as the correct accounting of such payments allows for proper planning of government and corporate liabilities. Ukraine, as a signatory to several international treaties within the UN and EU, is trying to adapt its legislation to these international standards. However, the integration process is being delayed by the lack of a systematic approach to implementing international requirements.

Notably, the financial sector in Ukraine is influenced by the Basel Accords, particularly

Basel III (2010), which sets out requirements for banks' capital and transparency in reporting (these requirements also apply to the accounting for social benefits that banks must provide to their employees). Ukrainian banks are gradually adapting to these requirements, but the process is rather slow, which limits the full integration of Ukrainian financial institutions into the international system. According to the National Bank of Ukraine (2024), only 40% of financial institutions comply with Basel III (2010), which indicates the need for further regulation and support from the state to ensure compliance with international standards. Implementation of the Basel standards is an essential step to increase the confidence of international partners and investors in Ukrainian banks and financial institutions.

An equally important international document that affects the field of financial reporting and the fight against corruption is the United Nations Convention Against Corruption (2003). It requires transparency in financial reporting, which is particularly relevant for the private sector, where financial statements are often used to conceal illegal transactions. Implementation of IFRS is important for ensuring transparency and compliance of Ukrainian enterprises with international anti-corruption standards. However, in practice, the implementation of these standards is still partial and uneven. According to Transparency International (2024), the level of transparency of financial reporting of Ukrainian companies is still considerably lower than in the European Union, which underscores the significance of strengthening control over compliance with international standards.

Overall, the implementation of IFRS in Ukraine is gradual, but is accompanied by certain difficulties, especially among small and medium-sized enterprises (Table 2). The greatest

progress is observed among financial institutions, which indicates improved compliance in the financial sector. However, the lack of strong readiness of small and medium-sized enterprises to implement IFRS continues to be a fundamental problem that may negatively affect their

competitiveness and investment. In contrast to Ukraine, EU countries demonstrate consistently strong IFRS compliance, which underscores the need for further reforms to achieve greater harmonisation of the Ukrainian accounting system with European standards.

Table 2. IFRS implementation dynamics in Ukraine and EU for 2020-2023

Indicators	2020	2021	2022	2023
Financial institutions compliant with IFRS,	38%	40%	42%	45%
IFRS-compliant companies in the service sector	40%	41%	42%	44%
Small and medium-sized enterprises ready to transition to IFRS	23%	24%	25%	25%
Level of IFRS compliance in the EU	78%	79%	80%	82%

Source: developed by the authors of this study based on data from the Statistics Service of Ukraine (2024) and the International Monetary Fund (2024)

Improving the effectiveness of accounting in Ukraine requires improved legislation, government support, and reform of the professional training system. One key aspect is to update the Law of Ukraine No. 996-XIV (1999), as it does not clearly define the criteria for mandatory application of IFRS for medium and small enterprises. According to Article 121 of this law, IFRS are mandatory only for large enterprises and public joint stock companies, while small and medium-sized enterprises can choose between NAS and simplified reporting forms. This creates a variety of approaches to accounting, which impedes the harmonisation of reporting with international standards.

This shortcoming can be addressed by supplementing Article 12¹ with new provisions that would require the mandatory application of IFRS for medium-sized enterprises engaged in foreign economic activity or having international contracts, considering their growing influence on the market. This will help to achieve uniformity in accounting for companies operating in international markets and increase the transparency of their reporting. The practical benefits of such changes are

to strengthen the confidence of foreign investors in Ukrainian companies, facilitate the attraction of financing, and improve the competitiveness of enterprises in the global market.

Technological support for the introduction of automated accounting systems is also important, especially in the context of accounting for social benefits such as pensions and allowances. For institutions that operate social funds, automation will help to make the administration of financial resources more efficient and reduce reporting errors. Large enterprises are already actively using such systems, but small and medium-sized enterprises face challenges due to the prohibitive cost of the software. Government support in the form of subsidies or tax breaks could simplify the transition to IFRS and facilitate the integration of automated solutions for enterprises involved in social payments (Le *et al.*, 2019). This would ensure better control over the use of budget funds and increase the transparency of accounting processes.

Reforming the system of training accounting professionals is critical for the successful integration of IFRS. One of the major challenges is the lack of qualified specialists capable of

implementing international standards and working with modern accounting automation tools. Updating educational programmes and upgrading the skills of existing accountants will help prepare specialists who can work with modern automation tools and ensure correct accounting (including social liabilities) (Johnson & Festus, 2021). Furthermore, state support for such training initiatives will help accelerate the integration of international standards and technologies into the accounting practices of enterprises.

In summary, improving the efficiency of accounting in Ukraine requires comprehensive changes. The primary challenges include the harmonisation of national standards with international ones, the lack of readiness of small and medium-sized enterprises to implement IFRS, and the need to modernise technological infrastructure and educational programmes. Particular attention should be paid to the accounting for social benefits, as the proper administration of pensions and other social obligations is important for ensuring financial stability and public confidence. While notable improvements have been observed among large enterprises, issues with accounting automation, training, and the regulatory framework require further attention to ensure that Ukrainian companies stay transparent and competitive on the international stage. Improvements in these areas will not only help attract foreign investment but will also increase the efficiency of managing social funds and the use of public resources.

Discussion

A study of the legal mechanisms for improving the efficiency of accounting in Ukraine revealed substantial problems in harmonising national standards with international ones. The implementation of IFRS for small and medium-sized enterprises is still insufficient, while the inconsistency of

national tax regulations with international standards complicates the accounting and financial reporting process for Ukrainian companies. In the context of globalised financial markets and economic integration, these issues are particularly important for Ukraine as it seeks to attract international investment and strengthen its presence in the global economy.

The study focuses on the problem of insufficient harmonisation of national standards with IFRS for medium-sized enterprises with international operations. This is consistent with the findings of O. Tunde and E. Adekunle (2023) and C. Lentner *et al.* (2020), who also noted the significance of extending IFRS to a wider segment of enterprises to improve transparency and attract international investment. Of particular importance in this context are medium-sized enterprises, which are not only actively developing but can also play a vital role in the social security sector by ensuring proper accounting for pension contributions and social benefits. However, this study emphasises that special attention should be paid to medium-sized enterprises as their market influence is growing, making them more relevant in the context of global economic relations.

Another aspect that was analysed concerns the shortcomings in the implementation of international standards in the state bodies controlling financial reporting. The findings showed that the lack of proper control by government agencies over IFRS compliance among small and medium-sized enterprises leads to a decrease in the level of transparency of reporting. This is in line with the findings of F. Ahakiri *et al.* (2020) and S. Knežević *et al.* (2021), which focused on the lack of control by government agencies over the implementation of international financial requirements. However, these studies mostly focused on large enterprises, while the present

study showed that the lack of control is more relevant to small and medium-sized enterprises, which often ignore international standards due to lack of proper oversight. This highlights the need to develop an effective oversight system that covers all enterprises regardless of their size, which will increase transparency.

The lack of uniformity in the requirements of the Law of Ukraine No. 2464-VI (2010) creates major obstacles for small businesses in performing their accounting obligations. Regardless of their financial capabilities, businesses must follow the same reporting deadlines and forms, which often complicates their adaptation to changes in social and labour legislation. This increases the risk of reporting errors and the probability of penalties, especially for those entities that do not have sufficient resources to meet all requirements promptly. V. Laux and P. Stocken (2017) stressed the value of a differentiated approach to reporting depending on the size of the company, but the cited study focused mainly on large companies and multinationals. In contrast, the current findings revealed that the lack of flexibility in the legal requirements in the social sphere increases the burden on small enterprises, which may affect their ability to perform their social payment accounting obligations on time. This indicates the need to improve legislation and introduce differentiated requirements for enterprises of varying sizes, which will help improve reporting efficiency and reduce the risk of violations in the social sphere.

In terms of transfer pricing, the results point to the difficulties associated with the mismatch between Article 39 of the Tax Code of Ukraine (2010) and international IFRS standards, which creates further barriers for businesses with international operations. This partially correlates with the findings of J. Li *et al.* (2021) and M. Bromwich *et al.* (2020), who also focused on the

challenges posed by the lack of clear rules for transfer price accounting and the difficulties of their practical application. However, the present study focused on the necessity of harmonising tax legislation with IFRS to avoid parallel accounting, which would facilitate reporting and increase the transparency of financial information. The comparison of approaches shows that the integration of international standards into national legislation can be a more effective way to facilitate the activities of enterprises in international markets, increase their competitiveness and transparency.

The study showed that the implementation of IFRS in Ukraine is slower due to inadequate government support. This pace of integration negatively affects the transparency of financial statements and the ability to attract international investment. This is consistent with the findings of L. Anderlini *et al.* (2020) and M. Hebatallah (2020), which indicated that the implementation of IFRS in EU countries considerably increased the level of transparency and investment attraction. Comparison of these data underlines that Ukraine can achieve comparable results, but it is necessary to accelerate the integration process substantially and provide enterprises with more support through government programmes and incentives. State support should be comprehensive, including both financial aid and information resources.

Another major aspect identified in the survey is the introduction of automated accounting systems. The data suggest that small and medium-sized enterprises lack the financial and technical resources to implement such systems, which complicates their compliance with international standards. O. Shubailat *et al.* (2024) and H. Tooranloo and M. Shahamabad (2020) also discussed the significance of automation for improving accounting efficiency but focused on

large companies that have the resources to make such changes. The present study found that small and medium-sized enterprises also need access to automated systems to properly account for social benefits and follow financial reporting standards. Government support programmes that facilitate the automation of such processes can ensure equitable access to modern technology, increasing accounting efficiency and reducing the risk of errors. Without adequate support, most small companies will be left behind, which will negatively impact both their competitiveness and the quality of social liability accounting.

Another critical issue addressed by the study is the qualifications of accounting professionals. The data showed that small and medium-sized enterprises lack qualified professionals capable of working with IFRS and modern accounting technologies. Although H. El-Chaarani and Z. El-Abiad (2022) and D. Sudarmadi (2023) addressed the significance of accountants' qualifications, they focused mainly on large companies that are already implementing international standards. Specifically, the need for specialists to account for social benefits and pension obligations, which is critical for enterprises and social security institutions, should be considered. The present study noted that small and medium-sized businesses are particularly vulnerable in this regard due to a lack of access to resources for staff training and development. This underscores the need to expand government initiatives to improve the skills of accountants to help SMEs meet international standards. Education and training should be a key focus of government policy in the accounting sector.

The study also revealed a significant problem with updating national accounting standards in the context of IFRS requirements. Ukrainian national standards lag far behind international standards and need to be substantially updated

to meet modern international reporting requirements. This partially correlates with the findings of M. Chy *et al.* (2020) and M. Ardiana *et al.* (2023), who also pointed out the need to modernise national standards. However, the studies of these researchers focused more on the impact of these changes on large businesses, while the present study focused on the challenges faced by small and medium-sized enterprises that have more limited resources to adapt to new requirements. This comparison indicates that the modernisation of standards should be tailored to the specifics of each category of enterprises, ensuring that the new norms are gradually introduced in line with their capabilities. This will help make the standards reform more effective and comprehensive.

The study identified the problem of insufficient coordination between social funds and accounting departments of enterprises, which complicates the prompt accrual and payment of pensions and other social benefits. The lack of uniform procedures for accounting for such liabilities leads to discrepancies in reporting and increases the risk of delays in payments. S. Aldeia and S. Jayantilal (2023) confirmed that effective management of social benefits requires coordinated accounting processes, but their study focused on the internal corporate processes of large organisations. The present study showed that insufficient coordination between enterprises and state social funds creates major obstacles in the administration of social benefits. The solution to this problem requires the development of unified accounting standards and the integration of automated systems between government agencies and enterprises to ensure accurate reporting and uninterrupted funding of social programmes.

The study revealed another substantial problematic aspect – the lack of a unified approach to

the formation of accounting policies for diverse categories of enterprises operating in international markets. The analysis found that enterprises independently choose their accounting policies pursuant to Article 11 of the Law of Ukraine No. 996-XIV (1999). This leads to considerable discrepancies in accounting approaches, especially among small and medium-sized enterprises. This partially coincides with the findings of D. Nguyen (2021) and A. Abdelhalim *et al.* (2023), who emphasised that the lack of clear accounting policy guidance for enterprises of varying sizes leads to instability in reporting. However, the present study focused on the problems faced by SMEs due to the lack of unified requirements, while D. Nguyen (2021) and A. Abdelhalim *et al.* (2023) focused more on large companies. A comparison of these findings shows that clearer legislative guidance on accounting policies for SMEs is needed to simplify reporting and increase their compliance with international standards.

Overall, there is a variety of issues in the legal framework for accounting in Ukraine, including insufficient harmonisation of national standards with international standards, problems in tax legislation, lack of proper control over their compliance, and insufficient government support for the introduction of modern accounting technologies. Overcoming these challenges requires a comprehensive approach, including updating standards, strengthening oversight, and developing educational programmes to improve the skills of professionals, which will facilitate Ukraine's integration into the international economic space.

Conclusions

An analysis of Ukrainian legislation governing the accounting system revealed substantial inconsistencies with international standards. The study found that the current regulations do

not fully consider the specifics of small and medium-sized enterprises. This is particularly pronounced due to the lack of clear mechanisms for implementing international financial reporting standards, which negatively affects the transparency of their reporting and reduces their competitiveness. Ensuring that national standards conform to international standards is an essential task, especially for enterprises that administer social benefits. The lack of flexible reporting requirements in the social security sector complicates the performance of accounting obligations, especially for small enterprises.

Analysis of the legal systems of other countries, such as the UK, Germany, and the US, showed that these countries have been much more successful in implementing international standards in their respective national systems. Their legislation clearly stipulates mandatory application of IFRS for most companies and contains effective mechanisms for overseeing compliance. In the UK and Germany, the implementation of international standards has greatly contributed to increasing the transparency of financial reporting and attracting foreign investment. At the same time, the US uses the GAAP system, which also ensures high-quality accounting processes, although its principles differ from IFRS. This demonstrates the significance of building a clear and transparent regulatory framework in Ukraine that meets international requirements and provides companies with easier access to international markets.

It was concluded that Ukraine should consider the practices of these countries and implement analogous oversight and support mechanisms for small and medium-sized businesses. The comparative analysis showed that the approaches to accounting regulation in these countries are much more effective due to clear regulation and government support. This is particularly true in the social

security sector, where the establishment of clear requirements for accounting for pension contributions and social benefits increases transparency and efficiency in the management of public resources. This underscores the significance of reforming Ukrainian legislation to ensure its compliance with international standards, including the integration of modern social benefit accounting mechanisms, which will also help to simplify business operations for all types of enterprises and increase the confidence of citizens and international investors.

In addition, the adoption of automated accounting systems in Ukrainian companies is still limited, largely due to the lack of financial and technical resources. This greatly reduces the efficiency of accounting processes and makes companies less competitive in international markets. Successful implementation of automated accounting systems is crucial to improve the accuracy of social payments, including pension accruals and benefits, which will contribute to transparency and efficient use of public resources. The study also showed that the low level of qualification of accounting professionals is a major obstacle to the implementation

of international standards. Training of accountants capable of handling the accounting of social benefits according to IFRS is a key factor in improving the efficiency of accounting processes and ensuring the sustainability of the social sector.

In summary, this study showed that the implementation of international financial reporting standards in Ukraine faces a series of legal, technical, and organisational obstacles that need to be overcome through reforming the regulatory framework, strengthening government support, and improving the skills of personnel. In the future, it is worth focusing on analysing the impact of accounting automation on various industries, which will improve the transparency of financial reporting and increase the competitiveness of Ukrainian enterprises on the international level.

Acknowledgements

None.

Conflict of Interest

The authors of this study declare no conflict of interest.

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Правові механізми підвищення ефективності бухгалтерського обліку у сфері соціального забезпечення: аналіз нормативно-правового середовища та рекомендації щодо вдосконалення

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Анотація

Метою дослідження було проаналізувати юридичні інструменти бухгалтерського обліку, акцентуючи на галузі соціального забезпечення, шляхом виявлення та оцінки основних проблем, що впливають на ефективність їх використання. Був проведений аналіз українського законодавства, що регулює бухгалтерський облік і податкове регулювання, проведено його порівняння з правовими системами Німеччини, Великобританії і США. Було вивчено питання гармонізації національних стандартів із міжнародними, що, зокрема, стосувалося труднощів, з якими стикаються малі та середні підприємства через недостатню підтримку з боку держави та невідповідність податкового законодавства міжнародним вимогам. Результати дослідження показали, що малі та середні підприємства в Україні відстають у впровадженні міжнародних стандартів через брак фінансових та технічних ресурсів. Також виявлено, що значна частина підприємств не має доступу до кваліфікованих кадрів, здатних працювати з міжнародними стандартами, що ще більше ускладнює їхній перехід на міжнародні стандарти звітності. Статистичні дані свідчать, що лише 35% середніх і 20% малих підприємств в Україні впровадили міжнародні стандарти фінансової звітності, що значно відстає від рівнів у Німеччині, Великобританії та США, де цей показник значно вищий завдяки кращому законодавчому регулюванню та підтримці з боку держави. Крім того, недостатня автоматизація облікових процесів та уніфікованість вимог до звітності у сфері соціального забезпечення ускладнює управління пенсійними виплатами та іншими соціальними зобов'язаннями. Виявлено, що недостатній контроль з боку державних органів за дотриманням міжнародних стандартів спричиняє зниження прозорості фінансової звітності, що призводить до загального відставання у конкурентоспроможності українських підприємств на міжнародних ринках. Дослідження вказало на відсутність координації між підприємствами та соціальними фондами, що підвищує ризики затримок виплат і помилок у звітності, що потребує вдосконалення облікових процесів для підвищення прозорості й стабільності системи соціального забезпечення. Отримані результати підкреслюють необхідність реформування законодавства для гармонізації національних стандартів із міжнародними та підвищення ефективності бухгалтерського обліку, що сприятиме залученню іноземних інвестицій і підвищенню конкурентоспроможності українських підприємств

Ключові слова: фінансова звітність; гармонізація права; аудит; міжнародні інвестиції; державна підтримка; економічна інтеграція; податкове право



UDC 342.7+347.77

DOI: 10.31548/law/3.2024.31

Digital human rights and their impact on intellectual property

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Article's History:

Received: 11.05.2024

Revised: 16.07.2024

Accepted: 15.08.2024

Abstract

Comprehensive research into the impact of digital human rights on intellectual property is highly relevant, as it holds significant importance for the development of a theoretical framework and the further advancement of the positive influence of digital human rights on the evolution of intellectual property. This article aimed to analyse the key areas in which digital human rights influence intellectual property. The research employed functional, historical-legal, synergistic, and formal-logical methods. The article examines the primary spheres in which digital human rights impact intellectual property. It also explores specific measures being taken at the state level to expand and enhance this influence. The potential impact of digital human rights on the development of legislation in the field of intellectual property has been analysed; the prospects for introducing new and improving existing methods of protecting intellectual property rights in the digital space have been explored; the directions in which digital rights influence judicial practice have been identified; and the current activities of state authorities in Ukraine regarding the protection of intellectual property rights, including in cyberspace, have been examined. As a result, proposals have been formulated to improve the legislative framework concerning the protection of certain intellectual property objects and

Suggested Citation:

Dzera, S. (2024). Digital human rights and their impact on intellectual property. *Law. Human. Environment*, 15(3), 31-47. doi: 10.31548/law/3.2024.31.



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mechanisms for safeguarding intellectual property rights in cyberspace. Specific measures have been suggested that may be used in shaping approaches to evidence in judicial practice. Proposals have also been developed for enhancing cooperation between public and private sector entities in the field of intellectual property in cyberspace

Keywords: digital environment; cyberspace; digital content; copyright; methods of protecting digital rights; protection of intellectual property rights

Introduction

Research into the impact of the digital environment and digital human rights on intellectual property is relevant both theoretically and practically. The need for in-depth theoretical research into such an impact is due to the fact that the active development of technologies at the current stage of societal development has led to the emergence of digital human rights as a separate category of human rights, which were not originally intended to be a separate type of rights. In the field of intellectual property, such an impact is one of the most noticeable, however, the specifics of the implementation and mechanism of protecting digital rights in this area are insufficiently researched. The practical need for research into this issue is due to Ukraine's active involvement in global processes of developing protective mechanisms against violations of human rights in cyberspace. Thus, the Cabinet of Ministers of Ukraine reported that in 2024, Ukraine joined the group of countries that, in order to combat websites where violations of intellectual property rights occur, decided to combine their efforts in filling WIPO ALERT – a unified platform of the World Intellectual Property Organization, on which participating states can post lists of relevant websites that have been identified at the national level as being used to infringe intellectual property rights (Cabinet of Ministers of Ukraine, 2024a). To implement active steps in this direction, on 1st February 2024,

the Ministry of Economy of Ukraine issued Order No. 2945 “On Approval of the Procedure for Formation and Maintenance of the National List of Websites Raising Concerns Concerning the Observance of Intellectual Property Rights” (2024). In 2023, the new Law of Ukraine “On Copyright and Related Rights” No. 2811-IX (2022) came into full force, with certain provisions introducing new tools for protecting intellectual property in the digital environment. The study of the specifics of infringements in this area, as well as the improvement of methods and practical mechanisms for protection against such infringements, determines the special relevance of the research topic.

It should be noted that the legal nature of digital human rights and their impact on law enforcement is quite actively researched by scientists, including Yu.S. Razmyetayeva (2020) and O.V. Petryshyn and O.S. Hylyaka (2021). In this context, it is worth mentioning the study of O.B. Bratasyuk and N.F. Mentukh (2021), studied the problem of establishing the definition of “digital human rights” and the classification of digital rights in Ukraine. At the same time, scientists emphasised the need to highlight a separate group of “digital rights”. Scientists proposed to study digital human rights as a separate group of human rights that are associated with the use and/or implementation in the Internet network using special devices.

V.M. Baranovska (2024) in her research analyses key aspects and solutions to the problem of intellectual property rights in the digital age, including the role of legal norms, protective measures, innovation, and international cooperation. The researcher investigates how transformative processes that have taken place in the field of intellectual property in the digital environment have influenced the ways of regulating legal relations and mechanisms for protecting rights to objects of intellectual property. The researcher concludes with the need to introduce new cybersecurity measures and mechanisms to combat violations in cyberspace, given their specificity.

A.S. Zolotar (2023) conducts a comprehensive study of the protection of intellectual property rights in the digital environment. The researcher analyses the challenges of implementing digital technologies to protect intellectual property rights in the digital environment, as well as studying the state's policy in the field of digitalisation and informatisation of society. In turn, R. Adams (2023) in their research draws attention to the existing gap between the development of digital technologies, on the one hand, and the legal regulation of intellectual property, on the other. The researcher analyses possible ways to bridge this gap, such as modernising intellectual property legislation; strengthening cross-border law enforcement; promoting digital literacy and education in the field of copyright. D. Chakraborty (2023) focuses on the problems that arise at the intersection of copyright, intellectual property rights, and issues of data privacy in the online environment. The author examines the issue of balancing the rights of creators in the digital environment and the privacy of individuals.

This research aimed to determine the main directions of the impact of digital human rights on intellectual property. To this end, the article

will consider the main trends of such an impact and the specific steps that should be taken within these directions.

Materials and Methods

For the preparation of this research, both general scientific and special legal methods were used. The use of the functional method made it possible to consider modern methods of protecting intellectual property rights in the digital environment. Through the historical-legal method, the dynamics of legislation regarding the protection of intellectual property rights on the Internet were explored. The application of the typological method allowed for the identification and analysis of Ukrainian court approaches to evidence in cases concerning the protection of intellectual property rights in cyberspace. Formal logical methods were used to form the conclusions drawn during the research. The sequential use of these methods facilitated the investigation of the relationship between the development level of the digital environment and the need for regulatory legal frameworks, as well as the analysis and identification of the need to modernise relevant legislation. This is crucial for achieving the research's objective, particularly for determining the areas in which digital rights influence intellectual property and formulating proposals to enhance the effectiveness of their protection.

The Ukrainian legislation served as the normative basis for this study. In particular, the updated Law of Ukraine No. 2811-IX "On Copyright and Related Rights" (2022), the Law of Ukraine "On Electronic Communications" (2020), "On the Basic Principles of Ensuring Cybersecurity of Ukraine" (2017), and the Memorandum of Understanding Between the Ministry of Economy of Ukraine and the World Intellectual Property Organization on Cooperation in the Field of

Intellectual Property (2023), as well as other legislative acts were analysed. The study of the normative base made it possible to trace the dynamics of legislative development and determine the current needs for further improvement.

Additionally, the current judicial practice of the Supreme Court was analysed for the purposes of this research. In particular, the current practice in cases of infringement of intellectual property rights in the digital environment was examined, which made it possible to study the approaches of courts to evidence in such cases and to formulate proposals for the further formation of law enforcement practice. Documents adopted by Ukrainian government executive bodies defining strategic directions for development in the field of digitalisation and intellectual property, analytical reports of specialised public organisations, such as the Concept of the Draft National Strategy for the Development of the Intellectual Property Sphere of Ukraine until 2030 (2024) and the Analytical report of the NGO "Human Rights Platform" (2023), were used. Furthermore, as methodological and theoretical guidelines, the scholarly studies of scientists who have researched the issues of digital human rights and the protection of intellectual property rights in the digital environment were used.

Results and Discussion

Digital human rights, both in general and in the context of intellectual property, are inextricably linked to the concepts of digital space, digital content, digital goods, and cyberspace. In legal science, there is no unified approach to defining these concepts. V.M. Trotska (2021) identifies the following as the most common characteristics of the digital environment: cross-border nature, dematerialisation, intensive development of the

information and knowledge market, anonymity, communicativeness, and multi-functionality.

As L.M. Savanets and G.M. Stakhira (2019) rightly point out when characterising digital content, it is advisable to emphasise its dual legal nature, which consists, in particular, of the fact that digital content simultaneously exists in material and immaterial forms of expression. In other words, on the one hand, it exists as a digital carrier, and on the other, as information that is placed and distributed in cyberspace (data generated and delivered only online). A consequence of this specificity of digital content is the need to analyse it simultaneously in two directions: as an object of civil rights, in particular, an intangible asset, on the one hand, and as a materially expressed object in a certain form, on the other. In the first case, digital content should be studied as a result of intellectual, creative activity; information; and human rights that relate to personal non-property rights – that is, a corresponding type of intangible asset. In the second case, the analysis should focus on the objective form of expression in the digital space and the influence of this form on the peculiarities of the acquisition, exercise, and termination of civil rights and obligations.

The specificity of digital content also lies in the fact that its properties allow it to be simultaneously classified as both an object of intellectual property and a thing of the material world, covered by the legal regime of property rights. This is due to the special form of digital content. According to V. Milash (2017), digital content should be understood as information contained in a specific source and expressed in a specific form. Scientists L.M. Savanets and G.M. Stakhira (2019) pay special attention to the specificity of the form of digital content and emphasise that it is precisely the unique form of digital content (binary code) that is the criterion based on which the

corresponding content can be qualified as an object of copyright – a work that is the result of human creative activity.

It is necessary to agree with the opinion of K.H. Nekit (2021), who emphasises the possibility of classifying digital content as objects of the material world. As a result, K.H. Nekit (2021) concludes that, given the characteristics of digital goods, there are grounds for extending the property rights regime to them, since they possess the characteristics of things of the material world. Thus, digital human rights are inextricably linked to the digital environment and digital content, which, given its specific form, has a mixed legal nature.

A broader and more general concept concerning “digital space” and “digital content” is “cyberspace”. As of 2024, the latter is defined by law as an environment (virtual space) that provides opportunities for communication and/or the implementation of social relations, formed as a result of the operation of interconnected communication systems and the provision of electronic communications using the Internet and/or other global data networks (Law of Ukraine No. 2163VIII, 2017). Thus, cyberspace is an information field that has emerged as a result of the operation of these information systems, and simultaneously a plane within which digital rights can be acquired and exercised.

Digital human rights are often defined as a group of human rights that are in some way connected to the Internet, specifically, are realised within this network or through its use. Based on this interpretation, O.B. Bratasyuk and N.F. Mentukh (2021) classify as digital human rights as precisely those rights that are directly related to the Internet space. The scholars refer to the right to access the Internet, freedom of expression online, and other rights that can only be realised in the Internet space.

Such an approach to digital human rights is somewhat narrow, as it is advisable to include in digital rights any rights, the acquisition and/or realisation of which occurs within cyberspace. For example, copyright and related rights to objects created or distributed in a digital environment; the right to respect for honour and dignity, and protection of business reputation. That is, any human right that can be realised in the digital environment or with its help is digital. Thus, digital human rights encompass both the aforementioned rights and other rights for the realisation, observance, and protection of which the digital environment is relevant. Based on this, digital human rights, on the one hand, have a specificity determined by their form and sphere of functioning, and on the other hand, retain the essential characteristics of the corresponding rights outside the digital space.

While supporting the need for a broad approach to interpreting human rights, it must be acknowledged that even such a list of rights is not static or unchanging. They are in a constant state of dynamic development, during which new rights appear in this area from time to time. For example, the judgment of the Court of Justice of the European Union in the case of *Google Spain SL, Google Inc. v. Agencia Española de Protección de Datos, Mario Costeja González* (2014) initiated a new concept - the “right to be forgotten”. After the publication of this judgment, the right to be forgotten became one of the important digital human rights in cyberspace. The right to be forgotten is proposed to be understood as the ability of an individual to oppose the continued presence in cyberspace of information about that person that is accessible to other subjects if it is outdated, inaccurate, irrelevant, or for other reasons.

According to N. Androshchuk (2019), the right to be forgotten can be realised by granting an individual the right to demand the removal

of information about themselves from publicly available sources in cyberspace if, in their opinion, such information violates or may violate their rights. D. Chakraborty (2023) draws attention to the fact that finding a balance between intellectual property rights and personal data is one of the most challenging tasks, one way of addressing which may be the application of technical means that allow authors to protect their copyrights while respecting their personal data.

As of 2024, the scale of development of digital rights has reached such a level that more and more scholars support the idea of constitutionalising digital human rights. In this connection, an increasing number of scholars propose singling out digital law as a separate branch of legal regulation. For example, according to N. Verlos (2022), there are grounds for singling out digital law as an independent branch of legal regulation. In addition, the scholar draws attention to the formation of an interdisciplinary institute of digital human rights and emphasises the need for the constitutionalisation of digital rights while simultaneously noting the existing gaps in their legal regulation. V.M. Beschastnyy *et al.* (2022) adhere to the view that digital constitutionalism recognises the priority of ordinary constitutional standards over specific regulations that operate in the digital environment (ethical rules, laws, etc.) and the need to take into account the features of traditional constitutionalism (organisational, legal, and others) when regulating relations in cyberspace with its specific rules. At the same time, the process of constitutionalising digital rights has its own specificity, determined by the features of these rights and the objects of civil circulation in the digital environment.

As a result, the development of digital rights, including in the field of intellectual property, leads to the emergence of separate regulatory

documents that extend their application to the digital environment (for example, ethical codes, rules, charters on freedom on the Internet, etc.). Such documents are developed at the national or international level, and can also be developed and implemented at the non-state level by the participants of the relevant legal relations themselves.

An example of such a document is the Okinawa Charter on Global Information Society (2000), which establishes measures between states in the field of optimising global networks, combating abuses, and aimed at reducing disparities in the development of digital technologies.

When developing such documents, the specific nature of intellectual property objects as such, as well as their features due to their functioning within cyberspace, are taken into account. Relationships within cyberspace are characterised by features such as the presence of specific (virtual) subjects; the virtuality of certain objects (virtual assets); the specifics of the form of concluding transactions and communication between participants in legal relations (electronic document management, online communication), and the possibility of using various technical platforms/platforms. According to O.M. Vinnyk (2022), considering these specificities enables the formation of new perspectives and approaches for optimising various issues that are relevant to business entities, such as gaining competitive advantages, monopolising markets, recognising transactions as void, determining the responsible party for committing an offence within the digital environment, and mechanisms for compensating damage caused by such violations. Thus, digital human rights are realised in a clearly defined digital environment, which has an impact on the mechanism of their realisation, potential violations, and methods of protection. All these features are particularly relevant to the field of intellectual property.

Digital human rights are shaping new needs for the development of the most relevant methods and mechanisms for protecting intellectual property. Ensuring reliable legal protection for digital human rights, including in the field of intellectual property, is driven, on the one hand, by the internal needs of the subjects of the relevant legal relations, due to the need to adapt the regulatory framework to the current state of development of digital technologies. On the other hand, Ukraine's active steps in this direction are conditioned by its obligations undertaken in connection with the signing of the Association Agreement (2014), which provides for, among other things, the harmonisation of Ukrainian legislation with European legislation. As noted by the American scholar R. Adams (2023), given the global nature of the spread of digital content, it is extremely important to improve cross-border law enforcement mechanisms for protecting intellectual property rights.

For effective protection of intellectual property rights in the digital environment, it is important to further develop and improve the regulatory framework, which would make it possible to properly identify intellectual property objects to ensure the prerequisites for their reliable protection in court. One of the notable directions of the impact of digital rights on intellectual property should be called the implementation of such an impact through the expansion of opportunities for the protection of copyright in the Internet space. In Ukraine, such an impact has manifested itself in the following measures. The first steps in this direction have already been taken by the legislator.

In the process of rapid development of legislative activities in Ukraine regarding the protection of digital rights, the Law of Ukraine "On Copyright and Related Rights" No. 2811-IX (2022) provided specific provisions for the protection of

rights in the field of intellectual property. In particular, the Law of Ukraine No. 2811-IX (2022):

- regulated issues concerning the legal regulation of the protection of databases (compilations of data). In particular, such objects are subject to copyright protection if, by the selection and/or arrangement of their components, they are the result of creative activity – Article 21 of the Law of Ukraine No. 2811-IX (2022);

- for the first time at the legislative level, issues regarding copyright in intellectual property objects created as a result of the application of artificial intelligence have been regulated. In particular, a *sui generis* right has been established for non-original objects generated by a computer program. As a result, users who create copyrighted works using artificial intelligence have obtained a legal basis for protecting proprietary rights to such objects – Article 33 of the Law of Ukraine No. 2811-IX (2022);

- the obligations of content-sharing service providers, i.e., owners of websites where relevant works are stored and/or access to copyrighted works are provided, have been defined in the event of receiving information regarding the infringement of copyrights and related rights. It has been determined what measures should be taken by such providers upon receipt of claims from copyright/related rights holders regarding the infringement of their rights on the relevant website, and what conditions such claims must meet. In particular, a content-sharing service provider must terminate access to the relevant content on its own website within 48 hours of receiving a claim regarding the infringement of copyrights/related rights by such content – Article 58 of the Law of Ukraine No. 2811-IX (2022);

- the conditions under which website owners are exempt from liability in case of copyright infringements using their web resources have

been stipulated. In addition, the conditions under which a website owner has the right to refuse to satisfy a claim of copyright infringement have been defined – Article 56 of the Law of Ukraine No. 2811-IX (2022).

The development of a legislative framework aimed at establishing mechanisms for the protection of intellectual property in the digital environment requires further improvement. Even though several categories necessary for the protection of intellectual property in the digital environment have been defined at the legislative level, not all of them have found their normative definition. Therefore, at the stage of protecting intellectual property rights from infringements, it is extremely important to determine the criteria by which an object in the digital space is covered by the right that has been infringed. For example, in its practice, the Supreme Court has noted that to establish the fact of counterfeiting a work in court, a legal assessment of the nature of this object must first be provided and it must be confirmed that it is indeed a copy of the work (Resolution of the Supreme Court in the Case No. 904/702/21, 2023). In turn, the absence or insufficient clarity of the criteria enshrined in the legislation for classifying a particular object in cyberspace as an object of intellectual property, or the provision of insufficiently clear regulation of the mechanisms for protecting intellectual property rights in cyberspace can lead to the impossibility or significant complication of their implementation and protection.

International judicial practice offers valuable insights in this context. For instance, the Delhi High Court (India), while considering a case of intellectual property rights infringement, took into account, as a separate piece of evidence in favour of the plaintiff to confirm the copyright infringement, the uncertain status of the website through which the copyright infringement was committed,

as well as the atypical activity of such a website, which allows it to be classified as one used by the defendant for illegal activities (Digital Piracy and Copyright Infringement, 2024).

Therefore, the impact of digital human rights in this direction should manifest in the maximum diversification of intellectual property objects, in particular copyrighted works, at the legislative level, which would include a detailed description of all the essential features of such objects. In addition, it is advisable for Ukraine at the level of the Supreme Court to form generalisations of legal positions and judicial practice, to unify the criteria both for the subject matter of the claim, methods of protection, and the set of evidence, the use of which would ensure effective legal protection.

The specific impact of digital rights on intellectual property is evident in Ukraine's participation in the WIPO ALERT platform, an international initiative aimed at combating websites that infringe on intellectual property rights (Cabinet of Ministers of Ukraine, 2024a). To effectively fulfil its obligations within this framework, the Ukrainian Ministry of Economy issued Order No. 2945 "On Approval of the Procedure for Formation and Maintenance of the National List of Websites Raising Concerns Concerning the Observance of Intellectual Property Rights" (2024), establishing a procedure for compiling such a list. This order followed the signing on July 24, 2023, of a Memorandum of Understanding between the Ministry of Economy of Ukraine and the World Intellectual Property Organisation on cooperation in the field of intellectual property (2023). This memorandum envisages further expansion of innovation and support for the development of intellectual property, taking into account the state of war, including attracting international technical assistance and financial resources to meet the needs of Ukraine's intellectual property and innovation

sector; supporting small businesses, researchers, and representatives of the creative sector affected by the war; and strengthening the capacity and providing support to Ukrainian institutions in accessing patent and non-patent databases. Additionally, the Memorandum provides for the adaptation of Ukraine's National Strategy for the Development of the Intellectual Property Sphere, taking into account the negative consequences of the war on intellectual property, among other things.

It is believed that Ukraine's active participation in international activities aimed at ensuring the establishment of a systematic fight against intellectual property infringements in cyberspace will contribute to increasing the level of protection of digital human rights and reduce the number of intellectual property rights infringements in the digital space (Order of the Ministry of Economy of Ukraine No. 2945, 2024). As of 2024, copyright and/or related rights holders have the opportunity to submit to the Ukrainian National Office for Intellectual Property and Innovations (UANPIO) relevant applications for inclusion in the national list of a website that, in their opinion, infringes copyright or related rights, or raises concerns about the observance of intellectual property rights (Order of the Ministry of Economy of Ukraine No. 2945, 2024). It is advisable to expand such activities at the national level, involving mechanisms to combat not only the operation of websites that infringe intellectual property rights but also other platforms for infringements in the digital environment and individual persons, for which to create their respective registers and unify the methods of reporting and responding to the facts of infringements of intellectual property rights committed with their participation.

At the same time, it must be acknowledged that, overall, after the full-scale invasion in 2022 and the introduction of martial law, national

legislation regarding the regulation of special mechanisms for blocking web resources that violate human rights and threaten national security was significantly improved, which led to a significant number of violations (Analytical report of the NGO..., 2023). Thus, before the full-scale invasion, the possibility of blocking web resources or certain illegal content was defined by Law of Ukraine No. 1089-IX "On Electronic Communications" (2020) and Law of Ukraine No. 2811-IX "On Copyright and Related Rights" (2022). These laws, respectively, established rules for restricting access to sites that distribute child pornography and introduced rules for restricting the distribution of illegal content. After the beginning of the full-scale invasion, national legislation was supplemented by regulatory acts that introduced new mechanisms for blocking the relevant Internet resources.

In May 2022, amendments were made to the Law of Ukraine No. 1089-IX "On Electronic Communications" (2020) that imposed an obligation on telecommunications network operators to comply with the orders of the National Centre for Operational and Technical Management of Electronic Communication Networks of Ukraine under conditions of emergency or martial law (Article 18). Such orders may include the blocking of web resources, as according to paragraph 14 of the "Procedure for Operational and Technical Management of Telecommunication Networks in Emergency Situations, State of Emergency or Martial Law" (2004), the National Centre for Operational and Technical Management of Electronic Communication Networks of Ukraine and network management centres, in agreement with the State Special Communications Service Administration, may, by the law, allow for some degradation of service quality and impose temporary restrictions on the provision of services until the

emergency is eliminated, and the state of emergency or martial law is lifted.

In January 2023, the National Centre for Operational and Technical Management of Telecommunication Networks of the State Service of Special Communications and Information Protection of Ukraine issued Order No. 71/854 "On Blocking Domain Names" (2023), obliging Ukrainian internet providers to establish a blocking system that automatically downloads a list of addresses every 15 minutes, access to which must be blocked. This list of addresses is created by the cyber incident response team in the Ukrainian banking system, which is part of the Cyber Security Centre of the National Bank of Ukraine.

In March 2023, the Law of Ukraine No. 2849-IX "On Media" (2022) came into force, granting the National Council on Television and Radio Broadcasting of Ukraine the authority to decide on blocking access to web resources. Specifically, Article 36 of the Law of Ukraine "On Media" (2022) prohibits media and common access platforms from disseminating certain types of information (calls for violent change, the overthrow of the constitutional order, the unleashing or conduct of aggressive war or armed conflict, violation of the territorial integrity of Ukraine, the liquidation of Ukraine's independence, information that justifies or promotes such actions, etc.). These new provisions allow for the blocking of web resources that pose a threat to national security through a simplified procedure.

As a result, several effective mechanisms have been developed for blocking internet resources that violate human rights and pose a threat to national security. The experience of using such mechanisms can be used to combat web resources that infringe intellectual property rights. To do this, it is necessary to establish a separate procedure for blocking such resources,

criteria for such blocking, and to grant UANIPIO or another institution the authority to make decisions regarding such blocking. Such a procedure can be enshrined in the form of a separate by-law dedicated to its regulation.

The development of digital human rights also leads to the emergence of new and specific ways to protect intellectual property rights. Scientists propose several specific tools for protecting such rights in the digital environment. For example, O.M. Pastukhov (2002) investigated methods for verifying the number of cases of paid use of copyrighted works on the Internet. Among such methods, the scientist mentions: access codes; rights management wrappers; hardware; executable programs; centralised computing; digital certificates; clearinghouses; and sales of physical copies. In the opinion of the authors of this study, the correct approach in this context is one that distinguishes between specific tools used to prevent and avoid violations and those designed to stop an ongoing infringement that has already occurred.

Technologies for protecting digital human rights are also actively developing, which simultaneously helps to minimise infringements of intellectual property rights in the digital environment. New technologies are emerging that help to implement such mechanisms. One such technology is blockchain. The opinion that there are separate, independent, and significant factors that indicate the expediency of introducing blockchain technology into national practice to strengthen the protection of intellectual property rights in cyberspace seems correct. In particular, A.S. Zolotar (2023) draws attention to the following factors:

- 1) the ability of blockchain technology to facilitate the identification of users of a particular web resource. In this case, identification can occur without the use of passwords or other

identification technologies that can only be applied with consent and under the conditions of certain user actions. Identification can be carried out both through standard methods (obtaining access to accounts in mobile applications and websites), and by signing smart contracts (in the field of intellectual property circulation);

2) the potential use of blockchain technology for data registration and accounting purposes (development of a register of persons who have rights to intellectual property objects, which would contain information about the authors of the relevant intellectual property objects, right holders, the time of acquisition of the relevant rights, etc.);

3) the possibility of using the technology as an element of more complex systems to increase the efficiency and security of the circulation of intellectual property rights.

Therefore, the use of this technology could hypothetically minimise the number of infringements of intellectual property rights in the digital environment. However, Ukraine currently lacks any regulatory framework governing the use of this technology to protect intellectual property rights from infringement. Given this, it is considered expedient to introduce such protective procedures for protecting these rights using this technology at the legislative level, as well as to adopt subordinate by-laws to implement them, which would detail the practical application of this technology.

Furthermore, digital rights management (DRM) technologies are also actively developing. I.V. Puzdranovskyy and O.V. Saliyeva (2023) note that within such technologies, types of protection such as setting certain restrictions for users on performing certain actions with digital content (for example, restrictions on saving, editing, and printing the material) or on using digital

content (for example, setting a certain maximum allowable number of downloads, etc.), introducing restrictions on access to digital content from certain locations or devices, etc. can be applied. It is advisable to enshrine them at the regulatory level, which will contribute to their systematisation and also allow for a more efficient process of implementing such technologies.

The impact of digital rights on intellectual property in the context of jurisdictional, particularly judicial, means of protection requires separate research. In this context, the issue of the extraterritoriality of digital rights is relevant, which has been noted by some researchers. For example, I.S. Kanzafarova (2019) draws attention to the problematic nature of determining the jurisdiction of courts of different states to file lawsuits, as well as enforcing relevant court decisions, given the use of “bitstreams” (BitTorrent) in information exchanges. The scholar notes that this problem is caused by the location and downloading of copyrighted works in different countries. Applying to a court in such a case must be preceded by the development of an evidence base that would confirm the commission of the relevant infringement by a specific entity, as well as a justification for the jurisdiction of Ukrainian courts over such a dispute. At the same time, it is expedient to introduce appropriate changes to both the substantive law at the legislative level and the procedural law, which would establish, on the one hand, clear criteria for legal protection, and on the other hand, requirements for the scope and type of specific evidence that would meet the requirements of admissibility, and the procedure (form) of their submission to the court. In particular, it is considered expedient to consolidate such criteria in the Law of Ukraine No. 2811-IX “On Copyright and Related Rights” (2022), as well as to specify the standards of proof of relevant infringements in

the procedural codes of Ukraine. Therefore, when protecting intellectual property rights from infringement, it is crucial to determine the criteria by which the object in the digital space is covered by the right that has been infringed.

A striking example of the consequences of insufficient regulatory frameworks for judicial protection of intellectual property rights can be found in the Resolution of the Kyiv Court of Appeal in case No. 759/8347/23 (2023). In this ruling, the court concluded that the provisions of paragraph 15 of Article 56 of the Law of Ukraine No. 2811-IX "On Copyright and Related Rights" (2022), according to which the owner of a website/webpage is not liable for copyright and/or related rights infringements committed using the Internet, if after committing such an infringement, he or she has timely taken the actions provided for in part three of this article to cease such infringement, does not apply in the case of an infringement committed using Telegram, since the latter is a program, not a website/webpage. The court concluded that there were no grounds for exempting the infringer from liability based on the said norm since the said article of the Law of Ukraine No. 2811-IX "On Copyright and Related Rights" (2022) provides for such exemption in cases of infringement committed using a website or webpage.

In this context, it is worth noting the Digital Services Act (2022) adopted by the European Parliament, which contains provisions that create a so-called "safe harbour" system for online platforms. According to these provisions, online platforms are not liable for digital content transmitted or hosted on their services provided that they are not aware that the content is unlawful or infringes copyright, take immediate action to remove or block access to such content as soon as they become aware of it, and ensure appropriate procedures for receiving and considering

notices of alleged infringement (Digital Services Act..., 2022).

The introduction of separate regulatory frameworks and the formation of stable legal positions regarding proof in cases involving the protection of intellectual property rights in the digital environment is of crucial importance. Due to the lack of clear approaches in legislation and practice to the means of proof for the protection of digital rights, proving their infringement is often complicated. For example, in the Resolution of the Supreme Court in case No. 760/16961/19 (2023), the court, considering a dispute over authorship of a computer program, dismissed the claim and found the expert opinions insufficient to prove such authorship, as they established that the copy of the computer program (in the form of a part (fragment) of the source code) according to the certificate did not contain signs of a full-fledged computer program, i.e., the fragment of the source code was not sufficient to identify the work. The court noted that the original computer program was not attached to the case materials by the claimant, which precluded the court from establishing the circumstances that are significant for the case due to the insufficient amount of materials provided for examination.

In another case, No. 910/11453/21 (2024), the Supreme Court dismissed the appeal against the decisions of the lower courts to deny the claim for the protection of rights to a commercial designation, justifying its decision by the absence in the case materials of sufficient evidence to confirm that the relevant disputed computer program was indeed used by another person specifically to designate their commercial designation.

The specifics of digital rights infringements in the digital environment also have a significant impact on intellectual property. Cybercrime is constantly refining its methods and means of

infringing intellectual property rights, requiring the constant development of law enforcement activities to counter and combat such infringements. Copyright infringement on the Internet can be both direct and indirect. A.K. Lisovyi (2021) classifies the former as piracy, plagiarism, forgery, and other infringements that directly involve the unlawful use of a copyrighted work. According to A.K. Lisovyi (2021), indirect infringements should include actions that contribute to creating conditions for copyright infringement but are not direct infringements themselves.

It should be noted that despite the rather significant prevalence of intellectual property rights infringements, including in the digital environment, international institutions have noted Ukraine's positive progress in combating and fighting against such infringements. For example, the United States Trade Representative (USTR) in its "Special 301 Report" for 2024 concluded that even during the war, Ukraine made significant progress in the field of intellectual property rights protection (Cabinet of Ministers of Ukraine, 2024b). At the same time, it is considered expedient to continue further active steps to combat infringements of intellectual property rights, including in the digital space. As of the second half of 2024, the process of developing a Concept of the Draft National Strategy for the Development of the Intellectual Property Sphere of Ukraine until 2030 (2024) is ongoing, the concept of which was presented in April of this year. In the opinion of the authors of this article, a separate section should be included in this document outlining future activities to combat infringements of intellectual property rights in the digital environment. Within this section, it is considered expedient to provide for (1) the improvement of the legislative framework, in particular, in terms of strengthening the liability of all participants

in digital relations for both direct infringements and actions that may contribute to infringements of intellectual property rights; (2) the systematic implementation of measures to encourage and popularise the development and use of technologies that make it more difficult to infringe intellectual property rights; (3) the systematic implementation of measures to encourage and develop cooperation between public and private sector entities aimed at stopping infringements of intellectual property rights in cyberspace.

Conclusions

Overall, the results of the conducted research indicate that the development of digital rights has a significant impact on intellectual property. In the future, this impact will expand and require timely regulatory adjustments, as significant gaps between the state of social relations in this area and legal regulation noticeably reduce the effectiveness of mechanisms for realising and protecting intellectual property rights in the digital environment.

The research has shown that digital human rights in the field of intellectual property have their own specific features, which cover the process of forming the objects of such property and require clarification of their individual criteria, as well as determine the specifics of protecting such rights, and define the activities of the public and private sectors aimed at strengthening mechanisms to counter violations of rights to objects of intellectual property in the digital environment. For effective protection of such rights, it is necessary to consider both their specificity as objects of intellectual property and the features of the digital environment.

It has been established that the development of digital rights is influencing both the legislative framework and judicial practice, necessitating their modernisation and the development of

unified approaches. As an analysis of judicial practice in cases of intellectual property rights infringements in the digital environment shows, there are currently no unified approaches among courts regarding standards of proof. Often, the lack of clarity in the legislation and the absence of unity in judicial practice significantly complicates the judicial protection of rights.

The research has formulated proposals for the further effective protection of intellectual property in the digital environment. In particular, measures have been proposed to improve the legislative framework, including detailing provisions on the legal protection of specific objects of intellectual property, as well as introducing new mechanisms for protecting intellectual property rights in cyberspace from infringements. Recommendations have been developed for the unification of judicial practice, in particular, the development

of legal positions that would generalise the approaches of courts to methods of proof, evidence, and the scope of the subject matter of proof to effectively protect rights in the field of intellectual property. Proposals have been formulated to encourage and popularise the development and use of technologies that make it more difficult to infringe rights on objects of intellectual property. Conclusions have been drawn about the need for further encouragement and development of cooperation between public and private sector entities aimed at stopping infringements of intellectual property rights in cyberspace.

Acknowledgements

None.

Conflict of Interest

None.

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Цифрові права людини та їх вплив на інтелектуальну власність

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Анотація

Комплексні дослідження впливу цифрових прав людини на інтелектуальну власність є актуальними, оскільки це має важливе значення для цілей створення теоретичної бази та подальшого розвитку позитивного впливу цифрових прав людини на розвиток інтелектуальної власності. Метою цієї статті було проведення аналізу пріоритетних напрямків впливу цифрових прав людини на інтелектуальну власність. При проведенні дослідження було використано функціональний, історико-правовий, синергетичний, формально логічні методи. У статті було розглянуто основні сфери впливу цифрових прав людини на інтелектуальну власність. Було досліджено конкретні кроки, що здійснюються на державному рівні з метою розширення та удосконалення такого впливу. Проаналізовано можливий вплив цифрових прав людини на розвиток законодавства у сфері інтелектуальної власності; перспективи запровадження нових та удосконалення існуючих способів захисту прав інтелектуальної власності у цифровому просторі; визначено напрямки впливу цифрових прав на судову практику; досліджено поточну діяльність державних органів України у напрямку захисту прав інтелектуальної власності, у тому числі в кіберпросторі. У результаті, сформульовано пропозиції щодо удосконалення законодавчої бази в частині заходів охорони окремих об'єктів інтелектуальної власності та механізмів захисту прав інтелектуальної власності в кіберпросторі; запропоновано конкретні заходи, що можуть використовуватися при виробленні підходів до доказування у судовій практиці; розроблено пропозиції щодо удосконалення співпраці між суб'єктами державного та приватного секторів у сфері інтелектуальної власності в кіберпросторі

Ключові слова: цифрове середовище; кіберпростір; цифровий контент; авторське право; способи захисту цифрових прав; захист прав інтелектуальної власності



UDC 342.6:351+658

DOI: 10.31548/law/3.2024.48

Investment appeal and legislative constraints of green tourism in Ukraine

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Article's History:

Received: 08.05.2024

Revised: 20.07.2024

Accepted: 15.08.2024

Abstract

This study aimed to identify the key aspects of state and investment support for green tourism in Ukraine. The methodological foundation of the research comprised scientific and methodological principles within the field of public administration, as well as regulatory frameworks of Ukraine and the European Union. In particular, the study utilised methods of systemic-structural analysis, logical-dogmatic analysis, and comparative legal analysis. An examination of European practices in the development and organisation of green tourism confirmed that adaptation of Ukraine's tourism sector would be insufficiently effective without integrating the experience of the European Union. This article addresses the main challenges and advantages associated with developing green tourism in Ukraine and proposes potential

Suggested Citation:

Lemishko, O., & Blyzniuk, V. (2024). Investment appeal and legislative constraints of green tourism in Ukraine. *Law. Human. Environment*, 15(3), 48-67. doi: 10.31548/law/3.2024.48.



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solutions to overcome these barriers. The findings, based on an analysis of the practices of European Union countries, highlight the prospects for organising this form of tourism in Ukraine. It is emphasised that the development of eco-tourism should be grounded in principles of territorial concentration, strengthening the role of local authorities, and employing a programme-targeted approach to engage rural communities in business projects within the eco-tourism sector. The importance of legislative initiatives aimed at fostering an ecological specialisation in green tourism is substantiated, covering strategic, regulatory, and programme-targeted aspects. It is established that the successful growth of this sector requires addressing a range of issues through collaboration between governmental bodies and local councils, especially in the context of decentralisation and the formation of amalgamated territorial communities. The need for prioritising financial and legislative support, alongside the development of a balanced state policy for regulation at the regional level, is highlighted. The importance of incorporating an ecosystem approach into the implementation of local and regional socio-economic development programmes is argued, with a focus on environmental priority within economic activities

Keywords: rural areas; development strategy; public policy; European experience; farmhouses

Introduction

Tourism in Ukraine, like many other countries, has the potential to become one of the primary drivers of economic growth, contributing to enhancing the country's international image and integrating it into the global economy. Ukraine's resort and recreational areas cover approximately 9.1 million hectares, which constitutes about 15% of the state's territory (State Statistic Service of Ukraine, n.d.). Despite significant destruction caused by hostilities and pollution (The damage to Ukraine's..., 2023), a significant portion of resort areas remains in safe regions and has considerable potential for development. Resort areas in western regions of Ukraine are of particular interest, however, rural areas are no less promising and can become centres for the development of rural and green tourism.

In the post-war period, the issues of rebuilding and sustainable development of rural areas will become particularly significant, and tourism can play a key role in addressing these challenges. Supporting these initiatives in Ukraine will not

only help to solve environmental problems in the regions but also serve as a means of diversifying the rural economy. According to the World Travel and Tourism Council, the tourism industry is demonstrating some of the highest growth rates globally (Global travel & tourism..., 2023).

The urgency of attracting investment resources and developing effective mechanisms to strengthen the investment component for the development of tourism destinations is driven by the needs of post-war state reconstruction. Green tourism plays a crucial role in this process, contributing to improving the environmental situation, raising the standard of living of the rural population, and the socio-economic development of rural areas.

At the present stage, green tourism in Ukraine is at an early stage of formation, although in several European countries, this direction already occupies a significant place in the tourism sector. Green tourism is characterised as a non-traditional form of tourism activity that

demonstrates a growing environmental consciousness and awareness among the population. One of the key features of this type of tourism is its positive impact on the socio-economic development of rural areas, including improving infrastructure, increasing employment levels and raising budget revenues from local income.

At present, green tourism in Ukraine is in its nascent stages, whereas in many European countries, this sector already holds a significant position within the tourism industry. Green tourism is characterised as a non-traditional form of tourism that reflects a growing environmental consciousness and awareness among the population. One of the key features of this type of tourism is its positive impact on the socio-economic development of rural areas, including improvements in infrastructure, increased employment levels, and higher local government revenue.

The topic of developing tourist destinations has been the subject of numerous scientific studies. In the study by O. Sushchenko (2022), key approaches to tourism development are explored, with particular emphasis on investment aspects. The research confirms that the development of rural and green tourism is important for overcoming socio-economic disparities in rural regions and for diversifying the local economy. The research by E. Dziurakh and I. Kulyniak (2022) focuses on key aspects of investing in the tourism sector, particularly in rural areas. It is determined that the effective development of tourism in these regions requires a significant increase in capital investment through the attraction of additional investment resources. Based on an analysis of the characteristics of investment activities, a classification of investment types that support the development of rural areas as tourist destinations is proposed.

In the studies of D. Suharto and C. Tando (2021) and M. Nekmahmud and M. Fekete-Farkas (2021), investment policy and its impact on environmental aspects are analysed. It is emphasised that various stakeholders play an important role in this process, including local and central government authorities, as well as non-governmental organisations, which jointly contribute to preserving environmental balance through the application of appropriate investment policy.

M. Ihnatenko *et al.* (2021) conducted research that focuses on the legislative support of green tourism. Their study substantiates various forms and directions of state and local support for strategic development programs of enterprises in the field of rural green tourism, including small businesses providing tourist services in rural areas. The instruments and methods of both direct and indirect support, as well as material and non-material incentives aimed at improving the living standards of the rural population and developing the middle class, are studied.

Research conducted by N. Thang (2023), S. Ma and Y. He (2022), highlights the significance of government policy, regulatory frameworks, financial resources, and community engagement in shaping investment intentions in the green tourism sector. It is indicated that the alignment of tourism offerings with the ecological and social preferences of conscious consumers can stimulate more active investment in this area.

An analysis carried out by A. Trstenjak *et al.* (2023) focuses on sustainability aspects within the tourism sector, particularly on the impact of economic, environmental, and social factors on ensuring long-term value. The research reveals the ineffectiveness of current environmental policies and the need for a review of approaches to environmental taxation. This indicates the need for increased attention to the quality of economic

development to minimise negative environmental consequences in the tourism industry.

Despite numerous studies dedicated to the development of rural tourism, theoretical and methodological questions related to the investment role in shaping tourist destinations in rural areas remain insufficiently developed. This particularly applies to issues of investment attractiveness of such territories, defining priority areas for capital attraction, as well as improving mechanisms of state regulation and attracting financial resources to support rural tourism.

This research aimed to determine the main aspects of legislative and investment support for green tourism in Ukraine. To achieve this goal, the following objectives were set: analysis of the specifics of investment attractiveness and support for green tourism; research on the experience of European Union countries in regulating green tourism; identification of existing legislative limitations in the field of green tourism regulation in Ukraine.

Materials and Methods

As part of the conducted research, an analysis of legal acts was carried out, providing a current understanding of the issue and identifying potential solutions. To study the regulatory framework of tourism in Ukraine and Europe, the following norms were systematically analysed: Law of Ukraine No. 1560-XII "On Investment Activities" (1991), Law of Ukraine No. 222-VIII "On Licensing of Economic Activities" (2015), Law of Ukraine No. 324/95-BP "On Tourism" (1995), Draft Law of Ukraine No. 5206 (2021), and Draft Law of Ukraine No. 4162 (2020), Farmers' Social Insurance Act of Austria (2024), Agriculture Act of Germany (1955), Personal Income Tax Act of Poland (1991).

To study the state policy in the field of tourism development, the following documents were

analysed: Strategy for the Development of Tourism and Resorts for the Period up to 2026 (2017), Resolution of the Cabinet of Ministers of Ukraine No. 297 (2006), Order of State Tourism Administration of Ukraine No. 19 "On Approval of the Rules for the Use of Hotels and Similar Accommodation Facilities and Provision of Hotel Services" (2004), "Position paper 20-155" of Information and Research Centre at the Verkhovna Rada of Ukraine (2021), Regional Development Strategy of Germany (2022), tourism development strategy in Austria (Plan T. Master..., 2019), Report from the Commission to the European Parliament, the Council and the Court of Auditors (2024).

A systematic-functional approach was employed to study the specified topic, allowing for a comprehensive assessment of the effectiveness of regulatory mechanisms in the green tourism sector, considering the interconnectedness of legal norms, economic factors, and social conditions. This approach not only helped to identify shortcomings in existing legislation but also determined the directions for its improvement, aimed at ensuring a more balanced development of green tourism. The analysis within this framework also involved an assessment of the functional interaction between government institutions, the private sector, and public organisations, which made it possible to formulate specific recommendations for improving the legal regulation and support of this sector.

The application of the logical-dogmatic method, in conjunction with other methods, has enabled the formulation of new conclusions, distinct from traditional ones, regarding the legal regulation of green tourism. The use of this method has facilitated a deeper understanding of legal norms through an analysis of their structure and content, allowing for the development of alternative approaches to the application of legal mechanisms

in this field. Such an approach has provided a critical perspective on existing legal instruments, enabling a review of established provisions and the proposal of new solutions to existing problems.

A comparative legal method was employed in the research to analyse the legal regulations and practices of green tourism in Poland, Austria, and Ukraine. The use of this method enabled the identification of both differences and similarities in the legal approaches to regulating green tourism in these countries, contributing to a deeper assessment of their impact on the development of the tourism industry. Within this analysis, various models of state support, tax incentives for farms, conditions for attracting private investment, and environmental requirements for organising green tourism were examined. Poland and Lithuania, as Central and Eastern European countries, share a similar history of development, social and economic conditions. They have also undergone the process of a post-socialist transition to a market economy, which makes the comparison with Ukraine relevant.

Results

Characteristics of the investment appeal and provision of green tourism. The term “green tourism” encompasses all forms of tourism activity undertaken in natural areas, with a focus on the use of natural resources and the implementation of environmentally friendly practices (Sustainable tourism..., 2024). The primary function of green tourism is to preserve both large natural landscapes and smaller natural objects, along with wildlife, for future generations. Thus, green tourism, as a subdivision of ecotourism, aims to minimise negative impacts on the environment and preserve the cultural heritage of local areas. Although the United Nations has defined certain criteria for ecotourism (UNWTO, 2017), green

tourism can vary in its level of environmental impact, encompassing both fully sustainable forms and those that are less harmful compared to traditional forms of tourism.

According to studies by T. Toubes and N. Araújo-Vila (2022) and D. Perkumiene *et al.* (2020), green tourism reflects the principles of sustainable tourism, aligning the interests of ecology, the environment, local communities, businesses, and tourists. The primary goal of green tourism is to minimise the negative impact of tourism activities on the environment and society.

Within the framework of sustainable tourism, green businesses focus on creating enterprises that prioritise environmental sustainability, social responsibility, and economic efficiency (Roblek *et al.*, 2021). According to research by N. Habiba and H. Calhan (2024), green businesses in the sustainable tourism sector act as a catalyst for innovation, economic growth, and increased environmental awareness, positively impacting the competitiveness of tourist destinations. Such entrepreneurs actively implement innovative ideas, solutions, and business models that align with the principles of sustainable development.

A study by M. Podovac *et al.* (2024) identifies several key factors that determine the significance of green investments. These include financial aspects (loan repayment terms, long-term risk assessment, etc.); additional factors encompassing environmental, scientific, religious, ethnic, and political considerations; reputational factors (investor and company image, marketing strategies, public pressure); and legal and fiduciary obligations (internal legal acts and international agreements).

W. Wang *et al.* (2023) highlights that the primary drivers of green investments are competitive pressure, environmental regulations, industry-specific characteristics, a growing focus on innovation, collaboration among companies,

and the increasing need to cultivate “green” consumer behaviour. Despite the significant role of financial and reputational factors in stimulating green investments, some limitations can hinder their development. For instance, environmental regulations are often insufficiently stringent or inconsistently applied across countries, which can create an uneven playing field for businesses and reduce the motivation to adopt sustainable practices. Furthermore, consumer behaviour is not always a stable factor, as changes in consumer preferences can be temporary and unpredictable. Innovative activities in the field of green technologies, while important, often face high costs and risks, which hinder their widespread adoption.

Green investments serve as a proactive mechanism to mitigate existing environmental challenges and prevent new ones from emerging. It has been established that the successful implementation of environmental initiatives requires close coordination between government agencies and the private sector. For profit-oriented enterprises, adhering to environmental and social standards is crucial as it contributes to improving their operational efficiency. Given the various negative impacts on the environment, such as water and air pollution, excessive energy consumption, waste generation, noise pollution, and congestion, which threaten flora and fauna, there are significant opportunities for investment in the green sector of the economy.

Research conducted by S. Rosyafah *et al.* (2020) identifies key components of green investments. These include low-carbon energy sources such as renewable energy, biofuels, and nuclear power; increased energy efficiency in both energy supply and consumption; and carbon sequestration processes, particularly issues related to deforestation and agriculture. Research by I. Mbukanma and R. Rena (2021) emphasises

that for the successful implementation of green investments, it is necessary not only to assess existing opportunities but also to create a supportive environment that includes educational programs, support for sustainable development, and resource provision for innovative initiatives.

However, it is noted that the aforementioned aspects do not provide an exhaustive understanding of green investments. Contemporary approaches to classifying green investments may not adequately account for the dynamic nature of environmental challenges and economic realities. For example, the emphasis on energy efficiency and low-carbon energy supply may not capture all the nuances associated with environmental impacts from manufacturing or infrastructure projects that are not always directly linked to energy consumption. The effectiveness of green investments depends significantly not only on the availability of resources but also on political will, economic incentives, and regulatory mechanisms, which may not be sufficiently reflected in existing research.

Key aspects determining the investment attractiveness of a particular territory are a complex of factors that influence the effectiveness of investment activities. Research conducted by M. Islam (2023) confirms that the investment attractiveness of regions is shaped by both objective and subjective factors. Objective factors encompass the socio-economic characteristics of specific regions, as well as their main directions of economic structural transformation. It has been established that investors prefer territories with developed industries and favourable economic conditions. Among the subjective factors, the activities of local authorities aimed at creating conditions conducive to attracting investment capital stand out.

The described categories of investment activity can be viewed through two main components:

investment attractiveness and investment climate. Investment attractiveness determines the level of popularity of a territory among investors and tourists, while the investment climate characterises the conditions for doing business and attracting investment. A territory with specific resources, favourable transport and geographical location, and accessible information can become a tourist attraction and turn into a tourist centre (Streimikiene, 2023).

To achieve a high level of tourist attractiveness and maximise socio-economic benefits, it is necessary to ensure the presence of a modern and developed material and technical base for tourism, along with effective tourism infrastructure. Even with significant natural resources and cultural heritage, without adequate infrastructure that meets international standards, it is difficult to expect significant revenues from the tourism industry in a particular region.

Despite the severe challenges faced by Ukraine's tourism industry due to the ongoing conflict, a total of UAH 89,420.000 in tourism fees were collected in the first half of 2022. This marks a 28.8% increase compared to UAH 69,453.000 collected in the same period in 2021. The largest contributions came from Kyiv, where the amount exceeded 20 million UAH, and from Lviv Region, which contributed UAH 19,774.000, demonstrating a 193% increase compared to 2021. Ivano-Frankivsk Region paid UAH 9,047.000, reflecting a growth of 76.4%, while Zakarpattia Region contributed UAH 8,872.000, an increase of 144% over the previous year. Among the regions, besides Lviv, Ivano-Frankivsk, and Zakarpattia, the highest growth was observed in Ternopil Region (145%), Khmelnytskyi Region (116%), Kirovohrad Region (105%), and Chernivtsi Region (103%) (Fig. 1).

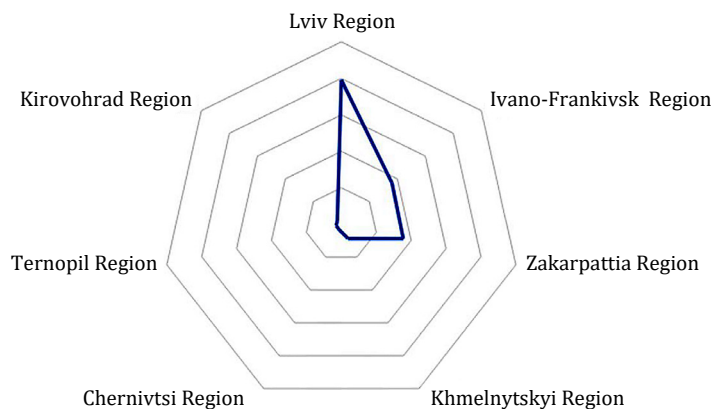


Figure 1. Tourist tax collection in 2023

Source: Tourism statistics of Ukraine: Dynamics of tax revenues by region (n.d.)

Investments in the tourism sector play a pivotal role in stimulating the development of the tourism market, expanding infrastructure, and improving service quality. Tourism is a relatively open sector, providing favourable conditions

for profitable business. For instance, according to O. Sushchenko (2022), the diversity of the tourism business allows for the diversification of investments, encompassing a wide range of production and service areas, a viewpoint that is

hard to dispute. Indeed, diversifying investments in tourism helps to mitigate risks associated with dependence on a single activity and enables more efficient use of available resources. This ensures the stability and sustainable development of the industry, which is further supported by research from J. Borsatto and C. Bazani (2021), who note that one of the key aspects contributing to innovation in the tourism business is adherence to environmental regulations, which incentivises companies to implement green innovations. Consequently, studying various mechanisms of environmental regulation can help explain how and under what conditions environmental policy influences green innovations within companies. The results of such studies can serve as the foundation for a robust conceptual framework that would facilitate further research in this area.

However, investments in the tourism sector of rural areas have certain specific characteristics that distinguish them from investments in urban and other territorial entities. The limited attractiveness of investing in the development of rural areas as tourist destinations is due to the difficult financial situation of most residents of these areas, as well as limited or non-existent opportunities for providing collateral. The main assets that can be used as collateral, such as fixed assets, typically have low liquidity due to significant depreciation. Nevertheless, it is worth noting that the limited attractiveness of rural areas for investment is not always a consequence solely of the difficult financial situation of residents or the lack of liquid assets. Several contemporary studies, including those by M. Santos *et al.* (2021) and N. Sulaiman (2024), indicate that the investment potential of rural areas can be enhanced through the development of alternative sources of financing, such as government grants, subsidies, and innovative forms of public-private partnerships.

A crucial condition is the creation of a favourable investment climate and the development of policies that stimulate the development of small businesses and green tourism.

According to Q. Nguyen (2024), attracting private, particularly foreign, investments into the tourism sector requires attention to several key aspects: a liberal administrative and tax policy that stimulates private investment initiatives; and an effective anti-monopoly policy that supports a healthy competitive environment for tourism enterprises. Indeed, the implementation of these measures and the promotion of tourism activities will contribute to an increase in investment flows. Investments in the tourism sector contribute to further development, especially in regions of Ukraine. The process of investing in the tourism industry is viewed as a continuous cycle of attracting and utilising financial resources.

Given the limited investment activity, especially in the development of tourism in rural regions, it is necessary to strengthen partnerships between enterprises, specialised funds, venture capital companies, and other financial organisations. As L. Chiu *et al.* (2020) rightly point out, each interested party plays an active role in supporting the environmental concept to ensure effective communication of the green message among stakeholders and local communities. It is important to recognise the significance of environmental initiatives, as they can bring numerous benefits to local communities.

Ukraine has developed a concept for a Rural Development Fund, which is planned to be implemented as part of the land reform (Law of Ukraine No. 552-IX, 2020). The fund's primary focus is on addressing critical issues such as infrastructure development, internet access, energy efficiency, education, healthcare, and supporting rural tourism and hospitality. The Rural Development Fund

and similar organisations can serve as significant sources of funding to increase employment in rural areas, which in turn will contribute to the diversification of economic activity and increased household incomes.

As the tourism industry in rural regions develops, the need for a systematic approach to financial matters becomes evident. Key components of this approach include the rational and efficient use of tourism resources, ensuring sustainable development and the creation of a national tourism product. The regulation of social, economic, and financial relations in rural and green tourism should be based on a systematic approach, as tourism is closely linked to various sectors of the economy. The effective functioning of the tourism industry requires a developed infrastructure, therefore attracting resources for the development of tourism and social infrastructure in rural regions is a key aspect of financing. As a component of ecotourism, green tourism plays a pivotal role in preserving natural resources and cultural heritage. Its goal is to minimise the negative anthropogenic impact on the environment and promote sustainable development. Scientific research confirms that investments in green tourism positively influence the increase in environmental awareness among the population and the economic competitiveness of regions. To ensure the effectiveness of such investments, coordinated interaction between state and private structures, adherence to environmental standards, and the creation of appropriate infrastructure are necessary. Despite the existing challenges, green tourism and investment activities in this area reveal significant prospects for ensuring the sustainable development of regions.

The European Union's experience in regulating green tourism. In European Union countries, green tourism is a key sector for approximately 35% of the population. Within the EU,

there are around 200,000 rural guest complexes that serve 25% of domestic tourists (European Travel Commission, 2024). This indicates that the systematic development of this sector allows for the effective solution of rural degradation problems arising from global socio-economic changes in Europe and the world.

According to the goals of the European organisation EuroGites (n.d.), one of the priorities is to stimulate the development of green tourism and to target investments in projects that support its growth. European countries implement relevant legal regulatory mechanisms that provide conditions for the sustainable development of this sector. For Ukraine, it is advisable to apply the European approach to the development of the tourism industry, as implemented in countries integrated into the European Union, such as Poland and the Baltic states. The development models used in these countries are based on state support, which takes various forms of implementation in EU countries. The main direction of state investment is reducing costs for tourism projects. This may include providing preferential loans, where the government compensates the difference between fixed and market interest rates, selling or leasing land plots and infrastructure facilities at a reduced cost, providing tax benefits, preventing double taxation through the conclusion of international agreements, reducing customs duties, and providing direct subsidies or guarantees for investments that attract foreign investors.

In addition to government support, European Union countries receive a significant portion of investment resources from specialised funds. The development of tourism in the EU is actively financed through the European Regional Development Fund (ERDF), which provides financial assistance to less developed regions of the Union. Particular attention is paid to projects that promote

the development of rural tourism and the popularisation of the region's historical and cultural values (European Regional Development Fund, n.d.).

The process of European integration in the Baltic countries has fostered a favourable investment climate, stimulating the development of the services sector, including banking and tourism. Support from the European Union has been expressed through investment in infrastructure projects, and the creation of new tourism directions, such as active recreation, cultural, business, medical, and health tourism, which has contributed to improving the quality of tourist services. The Horizon 2020 program and the cohesion policy may pose a risk of exceeding the 2% error rate, while expenditure on natural

resources as a whole and administrative expenses remain low (Report from the..., 2023). Despite this, most programs under the cohesion policy have a low or medium risk level. The Commission can accurately identify programs implemented in different countries that have a probability of exceeding the 2% error rate. Similarly, in the case of expenditure on natural resources with a low-risk level, particularly for direct payments, the Commission can identify payment agencies with a higher risk. Additionally, it also classifies market measures and rural development initiatives as high-risk. If the risk of payments exceeds the materiality threshold, including cohesion policy, the Commission takes corrective measures to reduce the error rate below 2% (Fig. 2).



Figure 2. Classification of the European Commission's expenditure by segments of high, medium, and low risk as a percentage of the total amount of relevant expenditure for 2023

Source: compiled based on the Report from the Commission to the European Parliament, the Council and the Court of Auditors (2023)

The targeted use of structural support from the European Union by Lithuania has led to significant development of tourist infrastructure. Parks, alleys, bicycle paths, and beaches have been created in the country, as well as other improvements that serve both tourists and local residents. Rural tourism in Lithuania is focused on traditional rural homesteads, the number of which exceeds 500. The state provides financial support for the restoration of old buildings in rural areas and the

preservation of objects of ethnographic value. Owners of such homesteads are required to adhere to folk traditions, prepare food from local products, and preserve authentic recipes of national cuisine (Tamošiūnienė *et al.*, 2007).

According to the Law of Lithuania No. VIII-667 "On Tourism" (2001), the main direction became the promotion of green tourism, or ecotourism, which focuses on observing wildlife and cultural heritage with minimal negative impact on the

environment. This strategy involves an emphasis on preserving biodiversity and improving the quality of life of local residents through the active involvement of the community in tourism initiatives.

Lithuania's experience confirms that structural support from the European Union is an effective tool for developing tourism infrastructure, rural tourism, and ecotourism. Combining the preservation of ethnographic and cultural traditions with modern principles of sustainable tourism development enhances the attractiveness of regions for tourists and positively impacts the economic situation of rural communities.

Poland's experience in the development of rural green tourism can serve as an important example for Ukraine. Poland applies mechanisms to exempt citizens involved in rural tourism from certain tax and administrative obligations, which contributes to simplifying activities at the local level. For example, according to point 43 of Article 21 of the Personal Income Tax Act of Poland (1991), the income of individuals from rural green tourism (agrotourism) is exempt from taxation, provided that the services are provided in agricultural areas and meet certain conditions. The introduction of similar incentives in Ukraine would contribute to broader public participation in the development of rural tourism and increase the potential of rural regions.

In the context of developing rural green tourism in Ukraine, stimulating active citizen participation in this sector is particularly important. Research conducted by M. Fu *et al.* (2024) suggests that introducing tax breaks for owners of agritourism facilities who do not have entrepreneurial status, similar to Polish practice, is an effective tool. In Poland, tax breaks for individuals engaged in agritourism without entrepreneurial status are regulated by Article 21, paragraph 43 of the Personal Income Tax Act of Poland (1991). According to this article, income from providing

agritourism services is exempt from taxation, provided that the activity is carried out in rural areas and the services do not exceed established norms, in particular regarding the size of the area and the number of services provided.

The Austrian model of developing green tourism is an example of the successful integration of farms into the tourism sector. Particular attention is paid to aspects such as organising farm holidays, grazing livestock, collecting herbs, and producing organic products. Farms participating in this program are part of the "Urlaub am Bauernhof" ("Farm Holidays") network, which is highlighted by special emblems. In addition, they actively conduct marketing activities, promote farm holidays, control product quality, conduct training programs, and maintain a database of potential visitors (Gutkevych & Haba, 2020). The Austrian experience may be relevant to Ukraine due to similar characteristics of agriculture in both countries. Such characteristics include seasonal employment of about half of the rural population, the presence of farms with an area of up to 5 hectares, a significant proportion of whose products are used for own consumption or sold directly to consumers, as well as low incomes from agriculture. The Agriculture Act of Germany (1955) outlines the fundamental principles for developing rural areas, including support for farms with limited land and seasonal production. It also includes provisions for supporting small-scale farmers and developing agritourism as a means of diversifying income. The Farmers' Social Insurance Act of Austria (2024) provides farmers engaged in agritourism with tax benefits, provided their activities are on a limited scale and incomes do not exceed certain thresholds. The Regional Development Strategy of Germany (2022) emphasises supporting seasonal employment for rural populations, which is relevant for farmers who grow products

for local markets and engage in tourism activities. This strategy aims to increase rural incomes and reduce dependence on traditional agricultural production. This suggests that Austrian practices may be beneficial to implement in Ukraine. However, when adapting the Austrian green tourism model to Ukrainian conditions, it is important to consider that green tourism in Austria is a significant component of the national tourism policy (Plan T. Master..., 2019) and enjoys significant government support, which provides investments in the development of tourist facilities. In Ukraine, state support for this area is currently insufficient to achieve a similar level of development.

Given the foregoing, green tourism in European Union countries demonstrates significant potential for economic growth and the sustainable development of rural areas. A high level of public involvement and investments from state and European funds contribute to the effective development of this sector, which has a positive impact on preserving cultural heritage and biodiversity. However, Ukraine should adopt the European experience by implementing similar mechanisms of state support and tax benefits to stimulate the development of rural tourism. This will allow for the activation of local communities' participation in tourism activities and increase the attractiveness of rural regions.

Limitations of green tourism regulation in Ukraine. The development of green tourism presents significant potential for improving the quality of life for both tourists and united territorial communities, ensuring socio-economic progress at the local level. For tourists, green tourism offers the opportunity for active recreation in rural areas, consumption of fresh products, interaction with local people, acquaintance with cultural traditions and customs, as well as the opportunity to develop new skills and contact with the natural environment.

From a territorial development perspective, green tourism contributes to creating additional sources of income, improving infrastructure, addressing socio-economic issues in rural areas, and preserving cultural heritage, which also contributes to the personal development of local residents. Green tourism is characterised by low implementation costs, as its foundation is based on domestic conditions and the peculiarities of rural life. However, current national legislation does not define specific requirements for organising domestic conditions and amenities for visitors in the owners of estates.

According to research by I. Juniarmi (2024), S. Kholijah (2024), and A. Risfandini (2024), government bodies and local authorities are not directly regulating the development of green tourism. In Ukraine, despite the importance of government programs and initiatives to create a favourable climate for the development of agritourism, the role of government bodies and local authorities in this area remains insufficiently effective. The lack of a clear and coordinated strategy, as well as a weak regulatory framework, leads to insufficient development of green tourism, potentially threatening the unregulated growth of the industry. This can have a negative impact on the environment, in particular on the state of natural resources, as well as on the cultural heritage and social stability of rural areas. Regulatory control in the field of agritourism in Ukraine is an important tool for ensuring high standards of service quality, protecting the rights and interests of tourists and local communities. However, existing regulatory mechanisms are insufficiently developed for the integration of agritourism into the overall strategy of socio-economic development of regions. The lack of effective state and local initiatives in this regard also complicates the possibility of attracting investments and

ensuring stable growth of the industry. Financing of green tourism in Ukraine remains problematic. State funds allocated to support rural and green tourism do not meet the real needs of the sector. This is particularly noted by the Information and Research Centre at the Verkhovna Rada of Ukraine (2021). This creates the prerequisites for attracting additional off-budget sources of financing, however, such a process is currently random and unsystematic. Therefore, it is necessary to introduce a comprehensive approach that involves not only the development of regulatory legal acts but also the creation of incentives for attracting investments, promoting the development of infrastructure and supporting small and medium-sized enterprises operating in the field of green tourism.

According to the conclusions presented by B. Al-Romeedy (2024) and M. Trisic (2024), stimulating innovation in sustainable tourism and supporting green entrepreneurs requires efforts from governments, tourism stakeholders, and local communities. Governments should play a key role in shaping a regulatory environment that encourages the adoption of sustainable practices and supports green entrepreneurship. To stimulate the development of sustainable tourism and green entrepreneurship, it is necessary to introduce financial instruments that include tax incentives, grants, and subsidies for green startups, as well as funding for research and innovation in sustainable development.

Based on the positions outlined in the studies of D. Suharto and C. Tando (2021) and M. Nekmahmud and M. Fekete-Farkas (2021), it is noted that key stakeholders in the tourism sector, such as tourism boards, industry associations, and development agencies, have significant potential to support green entrepreneurship. These organisations can provide financial and technical support to startups focused on sustainable tourism through mechanisms such as grants, loans, and

investments. Mentorship programs and providing access to important networks and resources are also essential for supporting green entrepreneurs.

Green tourism is an important direction for the development of the tourism industry in Ukraine, however, the existing legislation has several limitations that require correction. The limitations of green tourism regulation in Ukraine are related to the imperfections of the provisions of the Law of Ukraine No. 324/95-BP "On Tourism" (1995) and the Law of Ukraine No. 1560-XII "On Investment Activities". The Law "On Tourism" defines the general principles of the functioning of the tourism industry, but does not contain specific norms that would relate to the development of green tourism, which limits its integration into the country's tourism infrastructure. The Law "On Investment Activities" does not offer sufficient incentives for investors in this sector, which makes it difficult to attract financial resources for the implementation of projects related to sustainable development and environmental initiatives. The absence of clear mechanisms and norms that support green tourism activities hinders the development of innovative forms of tourism and the preservation of the natural environment, which is critically important for Ukraine.

At the same time, it is necessary to note the limitations arising from the application of other laws. For example, the Law of Ukraine No. 222-VIII "On Licensing of Economic Activities" (2015) defines licensing conditions in Article 1 but does not cover the specific aspects of green tourism. Resolution of the Cabinet of Ministers of Ukraine No. 297 (2006) does not take into account the specifics of green tourism, not providing clear criteria for agro- and ecotourism. The provisions of the Order of State Tourism Administration of Ukraine No. 19 (2004) also do not contain provisions that regulate the specific services that

can be provided within the framework of green tourism. From the provisions of the Strategy for the Development of Tourism and Resorts for the Period up to 2026 (2017), it follows that although the strategy defines the priorities for the development of sustainable tourism, it does not contain specific mechanisms for implementing green initiatives, which complicates attracting investments in this sector. Moreover, the lack of clear regulatory legal acts that would regulate green activities hinders the development of infrastructure and services necessary to support environmentally friendly tourism. This, in turn, negatively affects the ability to preserve natural resources and contributes to instability in this important sector of the country's economy.

The limitations of green tourism regulation in Ukraine are also evident in the lack of clarity and specificity of the provisions defined in Draft Law of Ukraine No. 5206 (2021) and Draft Law of Ukraine No. 4162 (2020). While the first draft attempts to define the foundations of green tourism development, its provisions remain general and do not contain specific mechanisms that would ensure the actual implementation and support of this form of tourism activity. The second draft, in turn, proposes to amend existing norms but also does not provide sufficient tools to stimulate investment in green infrastructure. As a result, Ukrainian legislation requires serious additions to create a favourable environment for the development of green tourism, in particular, by introducing specific definitions, benefits, and mechanisms to support investors.

As noted in the previous section, European legislation provides clear mechanisms for regulating and stimulating rural tourism, including tax breaks and special programs for agritourism. The Polish model, for instance, exempts income from agritourism from taxation for individuals

providing services in rural areas, stimulating the development of this sector. EU strategies for rural tourism development emphasise the preservation of cultural heritage, the involvement of local communities, and ensuring sustainable development.

In European countries, transparency in project funding is a crucial factor for the successful development of tourism. Ukraine lacks clear mechanisms for controlling the use of budget funds allocated for tourism development, which can lead to corruption and inefficient use of resources. To achieve success in developing rural green tourism in Ukraine, it is necessary to consider the European experience, introduce effective incentives, improve the regulatory framework, and ensure adequate government support.

However, implementing the European model of tourism industry development in Ukraine requires considering the specific internal conditions. Ukraine has unique economic and legal environments that may complicate the direct implementation of such mechanisms. For instance, providing preferential loans and subsidies, which is effective in EU countries, may face budgetary constraints and shortcomings in the functioning of financial institutions in Ukraine. Attracting foreign investors also requires a stable investment climate and effective anti-corruption measures, which can be a challenging task without proper reforms.

Therefore, it is necessary to focus not only on the volume of funding but also on the structure and sequence of its implementation. The experience of individual countries suggests that the main areas of budget financing in Ukraine could be the development of social tourism and the strengthening of public-private partnerships to expand tourism infrastructure. Within these strategies, it is important to focus on several aspects: the effective creation and functioning of a national tourism office that would represent the

country; ensuring participation in leading world tourism exhibitions; and conducting an active advertising campaign to promote the country in international tourism markets.

Government oversight in Ukraine could involve regular monitoring of green tourism activities, particularly regarding service quality standards, environmental protection, and compliance with legal norms regarding the use of natural resources. Adapting the Polish experience requires developing a corresponding regulatory framework that balances support for agritourism owners with requirements for the legality and transparency of their operations.

Proposed changes in the regulation of Ukraine's tourism industry could include the creation of a specialised state institution responsible for the development of this sector and directly subordinate to the government. Under decentralisation, local communities will have the opportunity to independently influence the development of the tourism sector in their regions, adapting it to specific local conditions.

Thus, green tourism in Ukraine has significant potential to improve the quality of life in united territorial communities and the socio-economic development of regions. However, the lack of clear legal norms and insufficient government support hinder its implementation and growth, which can negatively impact the environment and cultural heritage. For effective development, green tourism requires a comprehensive approach, including improving the regulatory framework, creating incentives for investors, and active participation of local communities in shaping a sustainable development strategy.

Conclusions

Investment processes in the rural tourism sector have unique characteristics that distinguish them

from investment activities in other regions. The limited investment appeal of rural areas as tourist destinations is linked to the financial difficulties that characterise a significant portion of the rural population. The main obstacles to actively attracting investors are poorly developed infrastructure, the lack of government incentives for investment in this sector, and the underdevelopment of longterm strategies for green tourism development. Despite the significant potential of natural and cultural resources, the lack of adequate legal support, government support, and a system to promote entrepreneurship in the field of green tourism significantly reduces its appeal to potential investors.

An analysis of the shortcomings of the legal framework indicates that Ukraine has significant gaps in the legislative regulation of green tourism compared to countries such as France, Germany, or Poland, where there are clear legal mechanisms to support this sector. Ukraine lacks specialised legislative acts that would stimulate the development of green tourism, and existing norms do not fully meet the modern needs of the industry. Many European countries have introduced preferential tax regimes for entrepreneurs in the field of green tourism, as well as state support programs, which are still lacking in Ukraine. In Ukraine, the legislation does not have sufficiently defined incentives to encourage local residents to participate in rural tourism, and opaque administrative procedures can complicate obtaining permits for tourism activities. Such benefits are practically not applied in Ukraine, which reduces interest in agritourism among the population. In Ukraine, strategic programs for the development of rural tourism are often insufficiently detailed and not focused on the needs of local communities, reducing the effectiveness of their implementation. The Austrian experience demonstrates the successful

integration of agritourism into national tourism policy, which ensures its support from the state. In Ukraine, such integration is insufficient, and there is also a lack of coordination between different government agencies responsible for the development of tourism.

A crucial aspect of successful rural tourism development is the active involvement of local residents and stimulating their participation in this process. The functioning of self-regulatory mechanisms in the field of rural tourism is of particular importance. Key factors for the industry's development include access to financial resources, the level of credit system development, human resources, as well as educational initiatives

and professional development. In addition, as with other types of tourism, an effective marketing strategy is important for promoting rural tourism services.

Further research should focus on creating new financing mechanisms for rural and green tourism facilities, as well as building effective interaction between government agencies and entrepreneurs to promote tourist regions.

Acknowledgements

None.

Conflict of Interest

None.

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Інвестиційна привабливість та законодавчі обмеження зеленого туризму в Україні

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Анотація

Метою проведеного дослідження було визначення ключових аспектів державної та інвестиційної підтримки зеленого туризму в Україні. Методологічну основу роботи склали науково-методичні принципи в сфері державного управління, а також нормативно-правові акти України і Європейського Союзу. Зокрема, використовувалися методи системно-структурного аналізу, логіко-догматичного та порівняльно-правового аналізу. Аналіз європейських практик розвитку і організації зеленого туризму, дозволив підтвердити, що адаптація українського туристичного сектора без врахування досвіду Європейського Союзу буде недостатньо ефективною. В статті розглянуто основні проблеми та переваги розвитку зеленого туризму в Україні і запропоновано можливі рішення для їх подолання. Результати дослідження, базуючись на аналізі практик країн Європейського Союзу, висвітлюють перспективи організації цього виду туризму в Україні. Підкреслено, що розвиток екологічного туризму має ґрунтуватися на принципах територіальної концентрації, посилення ролі місцевих органів влади та застосування програмно-цільового підходу для залучення сільських громад до бізнес-проектів в сфері екотуризму. Аргументовано важливість законодавчих ініціатив, спрямованих на формування екологічної спеціалізації у сфері зеленого туризму, що включають стратегічні, нормативні та програмно-цільові аспекти. Встановлено, що для успішного розвитку цього сектору слід вирішити низку питань шляхом взаємодії між державними органами та місцевими радами, особливо в умовах децентралізації та формування об'єднаних територіальних громад. Наголошено на необхідності першочергового вирішення питань фінансової та законодавчої підтримки, а також розробки збалансованої державної політики регулювання на регіональному рівні. Аргументовано важливість впровадження екосистемного підходу в реалізацію місцевих та регіональних програм соціально-економічного розвитку з акцентом на екологічну пріоритетність у господарській діяльності

Ключові слова: сільські території; стратегія розвитку; державна політика; європейський досвід; агрооселя



UDC 341.24:502.51(477)

DOI: 10.31548/law/3.2024.68

International legal and national mechanisms for overcoming the environmental consequences of the armed aggression of the Russian Federation against Ukraine

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Article's History:

Abstract

Received: 19.05.2024

Revised: 19.07.2024

Accepted: 15.08.2024

The armed aggression of the Russian Federation against Ukraine has caused large-scale environmental consequences, including air, water, and soil pollution, as well as the destruction of nature protection zones and forests. The purpose of this study was to analyse international legal and national mechanisms for overcoming the environmental consequences of war and to assess their effectiveness in the context of armed conflict. The study employed a comparative analysis of international legal acts, statistical methods for processing environmental pollution data, and a case study method to compare the effects of war in other countries. This study examined the impact of hostilities on Ukraine's ecosystems, including air, water, and soil pollution. The following features were identified: air pollution levels in the regions where industrial enterprises were destroyed far exceed the permissible environmental standards. Leaks of oil products and chemicals, specifically, have led to long-term adverse effects on soil and water resources. The destruction of industrial facilities such as oil refineries and chemical

Suggested Citation:

Stasiuk, N. (2024). International legal and national mechanisms for overcoming the environmental consequences of the armed aggression of the Russian Federation against Ukraine. *Law. Human. Environment*, 15(3), 68-84. doi: 10.31548/law/3.2024.68.



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plants was found to cause not only immediate emissions of toxic substances, but also long-term environmental threats that can affect regional ecosystems for decades. In addition, water pollution has reached a critical level, which poses a threat to public health and biodiversity. The study analysed the international legal mechanisms that have proved to be ineffective in addressing the problem of environmental crimes during military conflicts. The study found that international instruments for prosecuting environmental crimes need to be improved, particularly to ensure proper accountability for ecocide. The study revealed the need for new international initiatives aimed at developing effective legal instruments for environmental protection during conflicts. It was concluded that the international community is actively involved in the development of strategies to restore damaged ecosystems. The practical value of this study lies in providing recommendations for international organisations and governments to improve legal mechanisms for prosecuting environmental crimes and developing long-term strategies for restoring damaged ecosystems

Keywords: environmental consequences of war; international law; air pollution; ecosystem restoration; environmental crimes; legal mechanisms; environmental sustainability

Introduction

The environmental consequences of armed conflicts are one of the greatest challenges of modern times, as military operations cause extensive destruction of natural resources, environmental pollution, and deterioration of the quality of life of the population. The armed aggression of the Russian Federation against Ukraine is an example of such a conflict that has caused major environmental changes, affecting public health and global climate processes (UNEP, 2022; Greenpeace Ukraine, 2022; Amnesty International, 2023a; 2023b). The war in Ukraine has caused massive pollution of water resources, damage to industrial facilities, which has led to the release of toxic substances, as well as the destruction of ecosystems and protected areas (United Nations Environment Programme, 2022; Ministry of Environmental Protection and Natural Resources of Ukraine, 2023). Another vital aspect is the impact of hostilities on climate change, which is associated with massive greenhouse gas emissions caused by the destruction of infrastructure (UNCG & Ecoaction, 2023).

D.V. Dyadin *et al.* (2023) focused on the environmentally sustainable development of Ukraine's urban systems in the context of European integration. The researchers highlighted the principal challenges, including lack of funding, imperfect regulatory framework, and insufficient technical training to implement new environmental standards. Among the opportunities to improve the state of the environment in Ukraine, researchers note the potential for attracting international investment and technical assistance programmes that will help modernise urban infrastructure in line with EU environmental standards.

The studies of N.Ye. Tverdokhlebova and N.S. Yevtushenko (2023), who investigated the issue of regional environmental security under martial law, are also relevant. The researchers focused on new threats arising from armed conflicts and proposed solutions to overcome them through the introduction of the latest technologies and approaches in industrial production. O.V. Vygovska and Yu.F. Dekhtyarenko (2021)

emphasised the need to integrate environmentally balanced approaches, such as the use of renewable energy sources, green infrastructure, and sustainable resource management to reduce environmental pressure on urban systems. The researchers underscore the significance of strategic planning to ensure the long-term environmental sustainability of Ukrainian cities, especially in the context of global climate change.

N.A. Pylypenko (2023) focused on the implementation of sustainable development principles during the restoration of urban infrastructure after the war. The researcher explored the global experience of ecological construction, including the use of environmentally friendly materials, energy-efficient technologies, and the creation of green areas to support ecosystems in the urban environment. These approaches can become the basis for rebuilding Ukrainian cities, providing them with more opportunities for sustainable development.

A.O. Titova and V.M. Shmandiy (2022) thoroughly examined the problems of waste management arising during and after armed conflicts. They investigated the specifics of military-related waste disposal and proposed the introduction of separate collection systems, hazardous materials recycling, and the creation of specialised landfills, which are essential for environmental safety in the post-war period. Finally, M.O. Medvedieva and S.D. Bilotskiy (2023) examined the legal aspects of the environmental consequences of armed conflict, including ecocide and climate change. They reviewed international legal and national mechanisms to combat environmental threats arising from armed aggression.

The purpose of this study was to examine international legal and national mechanisms for overcoming the environmental consequences of armed aggression against Ukraine, as well as to assess their effectiveness and development prospects.

The key tasks included analysing the existing international legal mechanisms for overcoming the environmental consequences of armed aggression, assessing the state of Ukraine's ecosystems after the outbreak of war, and developing recommendations for restoring ecological balance and environmental protection.

Materials and Methods

This study employed an interdisciplinary approach to examine international and national mechanisms for addressing the environmental consequences of the war in Ukraine. The key sources of data included academic publications, official reports of international environmental organisations (Greenpeace Ukraine, UNEP, OSCE), regulations and international agreements on environmental responsibility during armed conflicts. The first stage of the study involved a systematic search of literature, regulations, reports, and scientific publications. Particular attention was paid to information on modern mechanisms of environmental restoration and overcoming the consequences of aggression (United Nations Environment Programme, 2022; Amnesty International, 2023a).

The next stage of the study was to assess the state of Ukraine's ecosystems. Specifically, the study relied on statistical data provided by the Ministry of Environmental Protection and Natural Resources of Ukraine (Ministry of Environmental Protection and Natural Resources of Ukraine, 2023), which indicate a considerable deterioration in the quality of water resources and a decrease in biodiversity in the affected regions. Furthermore, reports by international organisations such as Greenpeace Ukraine (2022) and the United Nations Environment Programme (UNEP, 2022) highlight the problems of air and soil pollution caused by military operations. To

assess the impact of hostilities on ecosystems and protected areas, spatial analysis methods were applied, including the analysis of map data and satellite images, which enabled a detailed analysis of the scale of destruction and identification of the most affected areas.

The third stage of the study focused on a comparative analysis of international legal instruments, such as Article 8(2)(b)(iv) of the Rome Statute of the International Criminal Court (1998), which addresses war crimes involving severe environmental damage, and Article 3 of the United Nations Framework Convention on Climate Change (1992), which prohibits methods and means of warfare that may cause long-term and severe damage to the environment. Separate analyses were made of Amnesty International's reports (2023a; 2023b) on environmental crimes in the context of war. This helped to conclude on the effectiveness of existing legal mechanisms for prosecuting those responsible for environmental damage.

The fourth stage involved the application of methods to systematise environmental data collected by international organisations and government agencies. Statistical data on the levels of air, water, and soil pollution were systematised and presented in the form of graphs and tables. This approach enabled the assessment of pollution

volumes and forecasts of possible consequences for public health and ecosystems. The final stage involved the use of a comparative method based on a contrast between the environmental consequences of the war in Ukraine and other countries that have experienced analogous conflicts, such as Vietnam and Iraq (UNEP, 2022). This helped to assess the effectiveness of various international and national mechanisms for overcoming environmental consequences and to develop recommendations for improving existing environmental recovery strategies.

Results

An analysis of the environmental consequences of the Russian Federation's armed aggression against Ukraine revealed catastrophic changes in multiple aspects of the environment. According to Greenpeace Ukraine (2022) and the United Nations Environment Programme (2022), the consequences of the hostilities cover a wide spectrum of ecosystem destruction, including air, water, soil, and biodiversity pollution. According to the Ministry of Environmental Protection and Natural Resources of Ukraine (2023), the scale of the damage is one of the largest in Europe in the 21st century, which requires an immediate response from the international community (Table 1).

Table 1. Environmental consequences of military operations on the territory of Ukraine (2022–2023)

Pollution type	Scope of damages	Investigated by
Pollution of water resources	3,500 tonnes	Greenpeace Ukraine (2022)
Air pollution	1,800 tonnes	United Nations Environment Programme (2022)
Destruction of ecosystems	20,000 hectares	Ministry of Environmental Protection, (2023)

Note: pollution type: oil products, toxic chemicals (including heavy metals) that entered water resources following the destruction of industrial facilities and leaks during military operations

Source: systematised by the author of this study

It is particularly noteworthy that air pollution is caused by toxic emissions from destroyed industrial facilities and military equipment.

According to the United Nations Environment Programme report (2022), in 2022, a considerable increase in the concentration of nitrogen

dioxide and sulphur dioxide in the air was recorded in the combat zones, which had detrimental effects on public health and the environment.

Table 2 provides comparative data on air pollution in certain regions of Ukraine before and after the start of armed aggression.

Table 2. Air pollution dynamics in Ukraine before and after the start of armed aggression (2021–2023)

Region	Average NO ₂ (2021)	Average NO ₂ (2023)	Average SO ₂ (2021)	Average SO ₂ (2023)
Donetsk Oblast	25 µg/m ³	78 µg/m ³	10 µg/m ³	42 µg/m ³
Luhansk Oblast	30 µg/m ³	85 µg/m ³	12 µg/m ³	45 µg/m ³
Kyiv Oblast	18 µg/m ³	40 µg/m ³	8 µg/m ³	23 µg/m ³
Zaporizhzhia Oblast	22 µg/m ³	65 µg/m ³	9 µg/m ³	30 µg/m ³

Sources: systematised by the author of this study based on the United Nations Environment Programme (2022), Ministry of Environmental Protection (2023)

In terms of water resources, the greatest pollution is observed in the rivers of Donbas and adjacent reservoirs, where water treatment systems have been damaged by shelling. According to Greenpeace Ukraine (2022), over 30% of water resources in the conflict zone are at risk from leakage of oil, chemicals, and other toxic compounds. An analysis by the Ministry of Environmental Protection (2023) in cooperation with Greenpeace Ukraine (2024) found increased concentrations of heavy metals in water samples from the Donets and Luhans rivers, including lead and cadmium, which could lead to long-term harmful effects on aquatic ecosystems and threaten public health in the surrounding regions.

International legal mechanisms play a crucial role in addressing environmental damage caused by war (Bothe *et al.*, 2010; Dam-de Jong *et al.*, 2023). The International Court of Justice (2023) has already made the first decisions on the responsibility of the Russian Federation for violations of environmental norms applied during the military operations in Ukraine. The case concerned the pollution of water resources and the destruction of nature reserves in the conflict zone, specifically through leaks of toxic chemicals and

oil products into the rivers of Donbas, which led to a critical increase in water pollution, as well as the destruction of protected areas such as the Sviati Hory National Nature Park and the Meotida Nature Reserve. These areas were affected by bombing and artillery shelling, which caused biodiversity loss and ecosystem destruction. Litigation for compensation for environmental damage is actively supported at the national level through the Ministry of Justice of Ukraine (Ministry of Justice of Ukraine, 2023), which prepares cases to bring perpetrators to justice and initiates international processes to compensate for environmental damage.

At the same time, international accountability mechanisms are largely based on international environmental conventions, such as the United Nations Framework Convention on Climate Change (1992) and the Protocol Additional to the Geneva Conventions (1977). These documents create a legal basis for prosecuting environmental crimes in armed conflict and oblige states parties to take measures to prevent environmental damage. Ukraine is actively cooperating with international partners to develop plans for compensation and environmental restoration after the conflict. The national mechanisms for

the restoration of nature reserves and biodiversity zones in Ukraine, implemented by the Ministry of Environmental Protection and Natural Resources of Ukraine (2023), have several key areas. Specifically, the ecosystem restoration programmes include the rehabilitation of national parks such as the Sviati Hory and Meotyda, which were severely damaged by the hostilities. The key measures include planting new trees, restoring destroyed forests, and creating protective zones around water resources that have been contaminated by damage to industrial facilities and toxic leaks (UNEP, 2022).

The programmes also aim to preserve biodiversity, including support for rare species affected by the war. Cooperation with organisations such as WWF and BirdLife International allows for technical aid and the use of international practices in restoring animal and plant populations (Greenpeace Ukraine, 2022). It is worth highlighting the significance of cooperation with Greenpeace Ukraine (2022) and UNEP (2022), which provide Ukraine with financial and expert support for the restoration of natural resources and the modernisation of environmental programmes, for instance, ongoing projects allow for the introduction of the latest technologies for water treatment and environmental monitoring.

Among the new areas that are actively developing in the context of overcoming the consequences of the war in Ukraine, a special place is occupied by the introduction of environmental sustainability concepts. These concepts are based on the international practice of countries that have faced comparable challenges during armed conflicts and are used as the primary tool to restore ecosystems and urban areas (Pylypenko, 2023). In Ukraine, such concepts have already begun to be implemented at both the state and community levels. One of the key aspects of these concepts

is the creation of ecological cities that will become an integral part of post-war reconstruction.

Environmentally friendly cities are focused on using modern technologies that minimise the harmful impact on the environment. An integral part of this is the introduction of renewable energy sources, such as solar and wind power plants, modernisation of transport infrastructure to switch to environmentally friendly modes of transport, and the creation of green zones in cities. Such initiatives are actively supported by international organisations, such as the United Nations Environment Programme (UNEP, 2022), which provides Ukraine with technical assistance for the development of sustainable environmental projects.

Furthermore, public initiatives play an essential role in implementing these concepts. In cooperation with organisations such as WWF and BirdLife International, Ukraine is implementing programmes to restore biodiversity and protect rare species threatened by the hostilities. Biodiversity conservation programmes also include the restoration of forests and aquatic ecosystems damaged by the hostilities (Greenpeace Ukraine, 2022). This includes planting new trees, cleaning up contaminated water bodies, and creating buffer zones to protect natural resources.

An analysis of the effectiveness of these programmes suggests that, despite their considerable potential, their implementation faces a series of challenges. One of the major obstacles is insufficient funding, which slows down the large-scale implementation of environmental technologies. Furthermore, implementing projects in areas affected by hostilities is problematic due to the presence of mined areas and damaged infrastructure (Ministry of Environmental Protection and Natural Resources of Ukraine, 2023). Still, international support and active public involvement contribute to the gradual development of these

initiatives and are essential for the country's sustainable development.

Successes are already being made in urban regeneration, particularly in large cities such as Kyiv and Kharkiv, where new parks and green spaces are being created. This not only helps to restore environmental balance, but also improves the quality of life of the population. Thanks to cooperation with European partners, Ukraine receives technical and financial support to implement best practices of sustainable development, which also contributes to raising environmental awareness among the population (UNEP, 2022; Pylypenko, 2023). However, to fully implement the concepts of environmental sustainability, it is necessary to continue attracting investments and developing international cooperation to overcome existing challenges.

According to a study by O.V. Vygovska and Yu.F. Dekhtyarenko (2021), the implementation of such concepts requires an integrated approach that includes the restoration of ecosystems, rehabilitation of destroyed areas, and the implementation of measures to ensure sustainable urban development. Notably, the primary risks to environmental security stem from the impact of armed conflicts on the biosphere and natural resources, and this requires an immediate response at the level of state and international initiatives.

The international community genuinely plays an integral role in addressing the environmental consequences of the war in Ukraine, developing both legal and practical mechanisms to address environmental issues. Amnesty International (2023a) in its report emphasised that the environmental impact of war extends beyond national borders and has global implications. The organisation stresses the significance of protecting environmental rights as part of the overall human rights process in the context of armed conflict.

One of the key aspects of this report is a call for international courts, such as the International Criminal Court (1998) and the International Court of Justice (2023), to actively engage environmental law mechanisms to prosecute environmental crimes arising from warfare. This includes the application of international legal norms, such as the Rome Statute of the International Criminal Court (1998), which establishes accountability for grave environmental damage caused during war. Additionally, international organisations such as UNEP (2022) are actively working to develop practical measures to mitigate the environmental impact of military action, including monitoring pollution and introducing technologies to restore affected ecosystems.

One of the critical aspects is the issue of ecocide, which is raised by both international organisations and national human rights institutions. According to M.O. Medvedieva and S.D. Bilotskiy (2023), the environmental consequences of the war can be qualified as ecocide, as the systematic destruction of natural resources, forests, protected areas, and other ecosystems was deliberately used as a tool of war. Transparency International (2022) emphasises that to combat environmental crimes during war, it is vital not only to use existing international conventions but also to create further mechanisms aimed at addressing environmental restoration. One of such mechanisms could be the development of an international tribunal for environmental crimes, specialising in liability for environmental damage caused during armed conflicts. Such a tribunal could operate under existing international conventions, such as the Rome Statute of the International Criminal Court (1998), which covers environmental crimes.

Apart from legal initiatives, environmental monitoring and damage assessment play an

equally significant role. International environmental organisations such as Greenpeace and WWF are already actively involved in these processes, but more technological approaches should be developed, including the use of satellite imagery and geographic information systems to better identify environmental damage. Such mechanisms will enable a more effective response to environmental crises and improve monitoring of the recovery of affected areas (Greenpeace Ukraine, 2024).

At the national level, Ukraine is actively implementing measures to overcome the environmental consequences of military aggression and preserve natural resources. The Ministry of Environmental Protection and Natural Resources of Ukraine (2023) has implemented a series of important programmes aimed at restoring the affected areas. Particular attention is paid to restoring biodiversity, protecting water resources, and developing strategies for sustainable urban recovery.

Restoring protected areas in regions where massive ecosystem destruction has occurred is a priority. According to UNEP (2022), the war has caused the destruction of over 500,000 hectares of forest, which is 25% of the forest area in Donetsk and Luhansk regions. This has resulted in a loss of biodiversity, increased soil erosion, deteriorating air quality, and the loss of habitats for more than 300 species of animals and plants. For instance, over 35% of the Sviati Hory National Park has been destroyed, threatening the survival of rare species such as the Eurasian lynx and the steppe eagle.

Reforestation is one of the key areas of environmental restoration. The Ministry of Environmental Protection and Natural Resources of Ukraine (2023) has a programme to plant new trees, restore forest soils, and create forest nurseries to grow local tree species adapted to the

local climate. The plan is to plant 1 billion trees over the next five years, and over 200 million seedlings have already been planted in the affected areas. The use of biologically active substances helps to restore soil fertility damaged by military operations. For example, the Return of the Steppe Eagle programme aims to return this species to its natural habitats destroyed by the war. Under this programme, more than 50 steppe eagles have been released into nature reserves in the Kherson region.

Ukraine's international partners provide extensive support in this area. The European Commission (2023) has allocated EUR 70 million for the Green Future of Ukraine project, which covers funding for reforestation projects, training of Ukrainian specialists in modern forestry methods, and exchange of practices with European countries. This support promotes the introduction of modern technologies and methods in forest restoration, which increases the effectiveness of these measures.

Government programmes also support local initiatives and the development of environmental volunteering. Volunteer movements have become key to the recovery process. According to N.A. Pylypenko (2023), the Green Wave organisation arranged tree planting campaigns that planted over 2 million saplings in the affected regions. These initiatives not only contribute to forest restoration, but also engage communities in active involvement in environmental projects, thus raising environmental awareness.

Water resources are also in the focus of national and international environmental programmes. Greenpeace Ukraine (2022) and UNCG and Ecoaction (2023) report that many rivers and reservoirs have been affected by the destruction of infrastructure and chemical leaks from destroyed industrial plants. The Dniro, Siverskyi Donets, and Inhulets basins have been found to

be heavily polluted with oil products and heavy metals. In the Inhulets, the concentration of oil products is 15 times greater than the standard, posing a grave threat to the water supply of millions of people and the river's biodiversity. In the Siverskyi Donets, elevated concentrations of heavy metals have led to fish kills along a stretch of more than 100 kilometres.

According to the Ministry of Environmental Protection and Natural Resources of Ukraine (2023), national initiatives are aimed at cleaning these rivers and restoring aquatic ecosystems. The ministry is cooperating with international organisations to introduce modern water treatment technologies and reduce pollution. In Kramatorsk, the construction of a modern water treatment plant is nearing completion to serve 200,000 residents. Biofilters are being installed in the Siverskyi Donets River basin, which reduced pollution by 70% over the course of the year. The use of bioremediation technologies helps to clean water from heavy metals and oil products, which helps to restore aquatic ecosystems and ensure safe water supply for the population.

International organisations, including the UN and OSCE, actively support these projects. The OSCE is implementing the Water Security for Ukraine programme, which envisages technical support for the implementation of modern treatment technologies, funding for research on the impact of pollution on public health, and training for local experts (Hasani, 2022). This cooperation helps to increase the effectiveness of water restoration measures and strengthen international relations in the field of ecology.

International organisations are also working to develop plans to reduce the impact of war on climate processes. Amnesty International (2023b) emphasises the need to implement new climate strategies for regions affected by warfare and

believes that environmental restoration should become an essential part of international climate agreements. The war has led to additional emissions of more than 50 million tonnes of CO₂ into the atmosphere, equivalent to the annual emissions of a small country. The destruction of forests and industrial facilities is aggravating the climate situation, which is why environmental restoration is critical to global efforts to combat climate change.

A common feature of studies in Ukraine and other countries affected by military conflicts is the severe impact on water and air resources. In the cases of Syria and Libya, the primary cause of pollution was the destruction of industrial facilities and infrastructure. However, in Ukraine, an added factor is the high concentration of chemical production in the eastern part of the country, which complicates the environmental remediation efforts. This feature makes the Ukrainian situation unique and requires specialised approaches to ecosystem restoration.

Another major difference is the scale of international aid. The European Commission (2023) notes that Ukraine has received extensive support from international environmental organisations such as Greenpeace, OSCE, and Amnesty International. This contributed to a faster assessment of the extent of environmental damage and the development of recovery plans. In many other countries affected by armed conflicts, international aid has been limited, slowing down the recovery process and adversely affecting the environmental situation.

One of the primary challenges to be addressed is the development of effective legal mechanisms to protect the environment during armed conflict. O.V. Vygovska and Yu.F. Dekhtyarenko (2021) emphasise that the national legislation of many countries, including Ukraine, does not fully meet the current challenges associated with the

environmental consequences of war. New legal instruments are necessary to effectively prosecute aggressor countries for environmental crimes and ensure compensation for affected states.

In the international context, it is essential to involve the International Criminal Court in cases related to environmental crimes during war. M.O. Medvedieva and S.D. Bilotskiy (2023) note that international agreements should contain provisions on criminal liability for ecocide and stipulate the possibility of compensation for affected countries. The role of the UN is key, as the organisation can initiate the development of new international conventions to protect the environment during hostilities. According to the UN (2021), there is a need to improve international environmental law, in particularly within the framework of the Rome Statute of the International Criminal Court, which currently does not contain concrete provisions on criminal liability for environmental crimes.

The introduction of compensation procedures for environmental damage caused by war is another prominent area. Transparency International (2022) notes that international courts and arbitration have an integral role to play in such cases. This includes the possibility of holding accountable not only states but also private companies that may be involved in environmental crimes. Strengthening environmental security through regional international agreements is also an essential mechanism. N.A. Pylypenko (2023) notes that such agreements can serve as an effective tool for preventing environmental disasters, but their implementation requires greater political will from the international community.

Special attention should be paid to the preservation of protected areas and nature reserves affected by the war. The United Nations Environment Programme (2022) reports that the war has damaged many protected areas, causing the loss

of unique species of flora and fauna. The loss of habitats for rare species threatens their survival and requires immediate action to restore ecosystems. Restoration of protected areas and nature reserves is a separate area of international efforts. The experience of Lebanon and Vietnam demonstrates that international aid plays an instrumental role in the restoration of natural ecosystems (UNEP, 2022). In Ukraine, such strategies can be implemented through cooperation with international partners who are already actively supporting environmental initiatives in the country.

The scale of environmental damage in Ukraine is much greater than in many other countries, and therefore the restoration process will require extensive financial resources and long-standing international support. Greenpeace Ukraine (2022) notes that Ukraine is developing strategies for the restoration of protected areas as part of its sustainable development strategy, including socio-economic aspects such as job creation in ecotourism and environmental management. This contributes not only to environmental restoration, but also to the economic development of war-affected regions.

One of the most significant environmental impacts of the war has been soil contamination, which has adversely affected agriculture and food security. Research by Greenpeace Ukraine (2022) shows extensive loss of fertile soil; in Kharkiv region, over 60% of agricultural land is contaminated, resulting in a 30-50% decrease in yields and threatening the country's food security. UNCG and Ecoaction (2023) confirms that the destruction of soil cover has reduced Ukraine's agricultural potential in some regions.

Soil restoration requires comprehensive measures. The use of phytoremediation - planting plants that can accumulate pollutants and then utilise them - helps cleanse soils of heavy metals

and toxins. The application of organic fertilisers helps to restore soil fertility, while regular monitoring of soil conditions ensures the effectiveness of remediation measures. The Ministry of Environmental Protection, together with international organisations, is developing programmes to clean contaminated soils and rehabilitate agricultural land, which will help restore the country's agricultural potential.

Waste management in wartime is one of the key environmental threats. Transparency International (2022) indicates that the war has led to a considerable increase in waste, including hazardous waste. Over 80 million tonnes of construction waste have been accumulated in the war zones. The management of hazardous waste, such as chemicals and ammunition, is of particular concern. A.O. Titova and V.M. Shmandiy (2022) emphasise that proper management of hazardous waste is a priority.

National waste management initiatives include the development of special programmes. The Ministry of Environmental Protection and Natural Resources of Ukraine (2023) is implementing new strategies, including the construction of modern waste processing plants. Specifically, the Ministry plans to build a waste processing complex that will be able to process up to 500,000 tonnes of waste per year in the city of Kharkiv. The creation of mobile construction waste processing plants will allow waste to be processed locally and materials to be reused in construction, which will reduce the environmental impact and promote sustainable development.

The war in Ukraine also has major consequences for public health. Pollution of air, water, and soil leads to an increase in disease cases. Greenpeace Ukraine (2022) reports a 40% increase in respiratory diseases in the affected regions. Increased cancer rates due to pollution are

also a concern. The Ministry of Health of Ukraine, in cooperation with international partners, is developing programmes to monitor environmental quality and public health. This includes regular medical examinations, the installation of filtration systems to purify drinking water, and educational campaigns to inform the public about the risks and ways to protect their health.

Discussion

The findings of this study on the environmental impacts of the war in Ukraine are consistent with a series of international studies that examine the environmental impacts of hostilities. For example, studies by Greenpeace Ukraine (2022) and the European Commission (2023) underscore the considerable impact of armed conflict on industrial facilities, causing massive air, water, and soil pollution. Industrial enterprises in the conflict zone become the primary sources of hazardous substances emissions, which greatly aggravates the environmental situation. According to M. Vashchyshyn (2022), the war in Ukraine has led to a sharp increase in pollution due to the destruction of infrastructure and chemical leaks, which is comparable to other conflicts, but the impact is much greater because of the densely populated regions and high concentration of industrial facilities. According to M.V. Hrushko (2023), the scale of environmental damage in Ukraine is much higher than in other conflicts, which underlines the uniqueness of the Ukrainian situation.

Comparing these findings with those of studies conducted in Iraq during the war, some overlaps can be identified, particularly in terms of the extent of infrastructure destruction and the impact on water resources. A study by Transparency International (2022) found comparable environmental problems in Iraq, including water pollution caused by oil leaks and the destruction

of industrial facilities. However, the scale of pollution in Ukraine is much greater due to the higher level of industrialisation and densely populated regions, as confirmed by M. Bilokon (2023). Furthermore, N. Pinda (2024) emphasises that managing environmental damage in war should be more challenging due to the heavy damage to critical infrastructure, which increases the intensity of environmental damage and complicates the recovery process after the conflict.

These findings are also consistent with international research on the impact of climate change on conflict. E. Miguel *et al.* (2013) examined the impact of climate change on human conflict and found that climate change can exacerbate the effects of armed conflict. The researchers note that global climate change poses additional challenges to stability as it deteriorates the condition of natural resources that are the object of struggle, which is consistent with the situation in Ukraine, where climate change exacerbates the environmental damage caused by war.

A study by O.M. Theisen (2013), which also focuses on the impact of climate on conflict, adds that climate change can not only contribute to conflict, but also make recovery from it more challenging by reducing access to natural resources. In the context of Ukraine, this means that recovery from war will be more problematic due to the increased impact of climate change on ecosystem restoration and economic resources. This argument supports the findings of this study that new legal and environmental mechanisms must be developed to address the problems caused by the conflict.

In terms of legal mechanisms for environmental protection during armed conflicts, S.M. Taranenko (2024) and S. Artamonova *et al.* (2022) emphasise that existing international agreements do not provide effective mechanisms for compensation for environmental damage caused by

war. Existing legal norms, such as international conventions and court decisions, do not always ensure adequate compensation for environmental damage. In his study on the legal regulation of environmental protection in Ukraine, K. Kozmulyak (2022) notes that international legal mechanisms do not sufficiently consider the specifics of modern conflicts, specifically the conduct of hostilities in densely populated regions, which creates further challenges for environmental protection.

Furthermore, O.V. Tkachenko (2024) proposes the expansion of sanctions mechanisms as a tool for holding states accountable for environmental crimes. The value of this approach is supported by studies that confirm the necessity of improving international legal norms to combat ecocide. Globalisation and the proliferation of international economic sanctions can be an effective means of pressuring states that wage wars that cause severe environmental damage, reflecting the urgency of intensifying international efforts to combat environmental crimes.

M.V. Hrushko (2023) confirms that the war in Ukraine is having a devastating impact on forest ecosystems and water resources, which is a critical aspect for environmental security. Analogous problems have been observed during other armed conflicts, such as in Syria, where the destruction of infrastructure has led to long-term changes in the local ecosystem. This confirms the conclusions of M. Bilokon (2023) that long-term environmental impacts require special approaches to recovery, particularly in the context of climate change and post-conflict recovery.

Another major aspect concerns the legal mechanisms for compensation for environmental damage, which are not yet sufficiently effective. According to Y.Y. Bobrova and Y.O. Bobrov (2023), the legal mechanisms applied in Ukraine cannot ensure full compensation for the damage caused.

This confirms the findings of O.M. Borshchevska (2023), who claimed that new international legal instruments should be introduced to combat environmental crimes. The insufficiency of existing legal mechanisms impedes the prosecution of aggressor states and creates further challenges for the protection of the environmental rights of affected countries.

Summarising the above, the results of this study confirm the necessity of improving international and national legal mechanisms to address environmental problems caused by armed conflicts. Differences between studies may be conditioned by the specifics of warfare in particular countries and regions, but a general trend towards increasing environmental damage caused by modern conflicts exists, calling for fresh approaches in both the legal and environmental spheres.

Conclusions

This study investigated the environmental consequences of the war in Ukraine, focusing on two key aspects: assessing the state of Ukraine's ecosystems after the outbreak of war and analysing the existing international legal mechanisms for overcoming the consequences of armed aggression. The purpose of the study was to identify the extent of environmental damage and assess the effectiveness of international legal instruments for environmental protection in the context of armed conflict. As a result, the study succeeded in achieving its objectives and gained a detailed understanding of the impact of the war on Ukraine's ecosystems and the possibilities of their restoration through international legal mechanisms.

The study analysed the environmental situation in Ukraine after the start of the armed aggression, with a particular focus on air and water pollution and the destruction of forest ecosystems. The hostilities have led to massive

emissions of toxic substances into the atmosphere as a result of the destruction of industrial facilities, especially in the east and south of the country. These emissions have posed a threat to public health and caused lasting changes in the region's ecosystems. Water resources were contaminated due to damage to the water supply infrastructure and chemical plants, which resulted in toxic substances entering rivers and groundwater, as confirmed by numerous reports by international environmental organisations.

Ukraine's forests have also suffered heavy losses due to military operations, which has led to a reduction in the area of nature reserves and other ecologically valuable areas. This destruction of forests has also affected biodiversity, complicating the possibilities for restoring natural ecosystems. Based on the data obtained, it can be argued that Ukraine's ecosystems have been extensively affected not only by the hostilities directly, but also by the accompanying environmental consequences, such as water and air pollution and land degradation. All these factors require long-term efforts to restore and rehabilitate the natural environment. This study reviewed international legal mechanisms aimed at overcoming the consequences of armed aggression. However, it was found that current international legal norms, such as the Geneva Conventions, are poorly adapted to protect the environment in modern conflicts. An analysis of documents such as the Rome Statute of the International Criminal Court revealed that the issue of environmental crimes is still lacking in international regulation.

The obtained findings are valuable for further research on the environmental impact of military operations. They underscore the necessity of strengthening international cooperation in developing new legal mechanisms to restore destroyed ecosystems and prosecute

environmental crimes. This study also opens avenues for further research, particularly in the area of analysing the long-term environmental consequences of conflict and developing effective strategies for ecosystem restoration in the post-conflict period.

Promising areas for further research may include an analysis of international legal instruments for prosecuting ecocide, an assessment of the long-term consequences of soil and water

pollution, and the development of new legal and economic mechanisms for environmental restoration after the end of hostilities.

Acknowledgements

None.

Conflict of Interest

The author of this study declares no conflict of interest.

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Міжнародно-правові та національні механізми подолання екологічних наслідків збройної агресії Російської Федерації проти України

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Анотація

Збройна агресія Російської Федерації проти України спричинила масштабні екологічні наслідки, включаючи забруднення повітря, водних ресурсів та ґрунтів, а також руйнування природоохоронних зон і лісових масивів. Метою дослідження було проведення аналізу міжнародно-правових і національних механізмів подолання екологічних наслідків війни та оцінка їхньої ефективності в умовах збройного конфлікту. У роботі було використано порівняльний аналіз міжнародних правових актів, статистичні методи для обробки даних про забруднення довкілля, а також метод кейс-стаді для порівняння наслідків війни в інших країнах. Було досліджено вплив військових дій на екосистеми України, зокрема аналізувались забруднення повітря, води та ґрунтів. Виявлено такі особливості: рівні забруднення повітря в регіонах, де були зруйновані промислові підприємства, значно перевищують допустимі екологічні норми. Зокрема, викиди нафтопродуктів і хімічних речовин, призвели до довготривалих негативних наслідків для ґрунтових та водних ресурсів. Було встановлено, що руйнування таких промислових об'єктів, як нафтопереробні заводи та хімічні підприємства, спричиняє не лише безпосередні викиди токсичних речовин, але й створює довготривалі екологічні загрози, здатні впливати на регіональні екосистеми протягом десятиліть. Також, забруднення водних ресурсів досягло критичного рівня, що створює загрозу для здоров'я населення та біорізноманіття. Проаналізовано міжнародні правові механізми, які виявилися недостатньо ефективними для вирішення проблеми екологічних злочинів під час військових конфліктів. Встановлено, що міжнародні інструменти притягнення до відповідальності за екологічні злочини потребують удосконалення, зокрема для забезпечення належної відповідальності за екоцид. Дослідження виявило необхідність нових міжнародних ініціатив, спрямованих на формування ефективних правових інструментів для захисту довкілля під час конфліктів. Було узагальнено, що міжнародне співтовариство, активно залучене до розробки стратегій відновлення пошкоджених екосистем. Практична цінність дослідження полягає в наданні рекомендацій для міжнародних організацій та урядів щодо покращення правових механізмів притягнення до відповідальності за екологічні злочини та розробки довгострокових стратегій відновлення пошкоджених екосистем.

Ключові слова: екологічні наслідки війни; міжнародне право; забруднення повітря; відновлення екосистем; екологічні злочини; правові механізми; екологічна стійкість



UDC 349:339

DOI: 10.31548/law/3.2024.85

Legal nature of parallel imports in Ukraine: The problem of certification and environmental standards

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Article's History:

Received: 30.04.2024

Revised: 13.07.2024

Accepted: 15.08.2024

Abstract

The study focused on the legal aspects of the recognition of European conformity certificates in Ukraine and their impact on the imported products market, with the purpose of assessing the possibility of simplifying import procedures and strengthening Ukraine's market position. The methodology included an analysis of the current Ukrainian and EU regulations on product certification, a comparative legal analysis of conformity assessment systems, which helped to analyse the possible financial implications and legal consequences of labelling in Ukraine. The study identified the risks associated with differences in quality control standards and market surveillance mechanisms and stated the need for gradual harmonisation of Ukrainian legislation with EU technical regulation, considering the specifics of the national market and consumer safety requirements. Concrete steps were proposed to introduce a system for the recognition of European certificates, including the creation of a system for rapid response to identified non-compliances and strengthening cooperation with European conformity assessment bodies. The analysis also covered the implications of the recognition of European certificates for environmental standards in Ukraine. It was shown that the adoption of European norms can contribute to higher

Suggested Citation:

Storozhuk, Iu. (2024). Legal nature of parallel imports in Ukraine: The problem of certification and environmental standards. *Law. Human. Environment*, 15(3), 85-102. doi: 10.31548/law/3.2024.85.



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environmental requirements for imported products, potentially improving the state of the environment in the country. The results indicate the need to create an effective system for monitoring and controlling compliance with environmental standards when importing goods. The study's findings underscore the significance of the balance between simplifying import procedures, ensuring high quality and safety standards, and promoting sustainable development of the Ukrainian economy

Keywords: quality control system; technical regulation; consumer protection; European integration; customs clearance

Introduction

In the context of Ukraine's European integration, the issue of legal regulation of parallel imports is of particular relevance. Parallel imports, which involve the importation of original goods without the express consent of the trademark owner, substantially affect competition, pricing, and the availability of goods to consumers. An essential aspect that requires further research is the interaction between legal protection of trademarks and general principles of market competition. The relevance of addressing these issues is driven by the need to simultaneously ensure free access to the market and support innovation, which underpins sustainable economic development. Furthermore, the adoption of international practices and the development of unified approaches to certification and compliance with environmental standards can minimise risks to consumer health and ensure environmental safety. In this regard, it is necessary to create a unified regulatory approach that would strike a balance between the interests of rights holders, consumer protection, and compliance with international environmental standards.

The issue of parallel imports lies at the intersection of various branches of law, including civil, commercial, customs, and intellectual property law. This complexity creates further challenges for legal regulation and requires a comprehensive scientific analysis. The issues of product certification

and compliance with environmental standards in parallel imports are particularly acute, as they directly affect consumer safety and the environment.

Many researchers have investigated various aspects of parallel imports. Specifically, J. Ishikawa *et al.* (2020) studied the economic aspects of parallel imports and their impact on public welfare, proving that permitting parallel imports can lead to lower prices in the internal market due to increased competition between formal and informal distributors, which positively affects consumer welfare. M. Reisinger *et al.* (2019) explored the legal aspects of regulating parallel imports in the context of intangible assets law, focusing on the relationship between parallel imports and the innovation activities of pharmaceutical companies. M. Ikram *et al.* (2020) analysed the environmental aspects of international trade and their impact on the competitiveness of products. The researchers found a positive correlation between compliance with environmental regulations and the success of companies in international markets. L.V. White *et al.* (2021), studying the problems of emissions certification in international hydrogen trade, substantiated the need to create a unified international system of certification and verification of environmental standards, which is especially relevant in the context of parallel imports of energy-intensive products and

compliance with the environmental obligations of importing countries.

In the context of Ukraine, M. Derevyanko *et al.* (2021) considered the adaptation of legal norms in the field of engineering legal regulation and conformity assessment to EU norms. The researchers substantiated the need to implement a modular approach to conformity assessment and developed a roadmap for harmonising Ukraine's technical regulations with EU directives. O. Dniprov *et al.* (2020) investigated the issue of guaranteeing the protection of Ukraine's borders in the context of parallel imports, proposing the introduction of an automated risk management system and strengthening interagency coordination to improve the effectiveness of customs control of the originality of goods.

Despite the considerable amount of research in the field of parallel imports, a series of issues are still understudied, especially in the context of Ukrainian reality. Specifically, there is no comprehensive analysis of the legal nature of parallel imports in Ukraine, which would cover both aspects of product certification and compliance with environmental standards. The issue of mutual acceptance of quality documents between Ukraine and the EU in the context of parallel imports has also been under-researched.

The purpose of this study was to determine the specific features of legal regulation of parallel imports in Ukraine through the lens of certification requirements and compliance with environmental standards. To fulfil the stated purpose, the following tasks were formulated:

- 1) to investigate the situation with legal control of simultaneous importation in Ukraine;
- 2) to determine the specific features of compliance with environmental standards in the context of parallel imports;
- 3) to develop recommendations for improving the legislation in the field of parallel

importation, considering the requirements of certification and environmental standards.

Materials and Methods

The research methodology was based on an approach that included formal legal analysis and comparative legal analysis. To examine the legal framework, the key documents of Ukrainian legislation were analysed, including the Law of Ukraine No. 124-VIII (2015), the Law of Ukraine No. 1023-XII (1991), the Customs Code of Ukraine (2012), Association Agreement (2014), the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the Period up to 2030 (2019). The study focused on the provisions of these regulations on technical governance of import operations, conformity assessment procedures, customs clearance of goods, mutual recognition of quality certificates between Ukraine and the EU, and environmental requirements for imported products.

The comparative legal analysis was performed based on the following criteria: terms and procedures for product certification, labelling requirements, market surveillance mechanisms and liability for violation of technical regulations by comparing Ukrainian legislation with the regulations of the European Union (EU), including Regulation of the European Parliament and of the Council No. 765/2008 (2008) and Directive of the European Parliament and of the Council No. 2011/65/EU (2011). To analyse the judicial practice, the study examined the Resolution of the Kyiv Commercial Court of Appeal No. 910/14972/17 (2018) and the Resolution of the Supreme Court Composed of the Panel of Judges of the Commercial Court of Cassation in Case No. 910/4947/18 (2019), which concerned disputes over the legality of parallel imports and protection of intellectual property rights.

The study prioritised the principle of exhaustion of intellectual property rights and its impact on the possibility of parallel imports in Ukraine. The comparative analysis method was employed to investigate the issues of product certification and compliance with environmental standards. This helped to compare the requirements of Ukrainian legal norms with foreign standards and practices, specifically with EU norms for determining the consistency and environmental safety of products. The economic aspects of parallel imports were analysed using the data presented in the studies by T. Major (2020) and S. Massini *et al.* (2023). This helped to determine the probable impact of parallel import liberalisation on the competitive environment and pricing in the Ukrainian market. To study the environmental aspects of parallel imports, the study analysed the provisions of the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the Period up to 2030 (2019) and European regulations, namely Directive of the European Parliament and of the Council No. 2011/65/EU (2011). This helped to establish key environmental requirements for products and assess their impact on parallel imports.

Results

Theoretical and legal basis of parallel import in Ukraine. The legal nature of parallel imports in Ukraine is characterised by a complex combination of civil, commercial, and customs law. A review of the existing legal provisions suggests a lack of a clear interpretation of the term 'parallel import' in the regulations of Ukraine. The legal regulation of this phenomenon takes place through the principle of termination of powers over intangible assets.

The study of the legal framework revealed a contradiction between the desire for European

integration and the existing regulation of parallel imports. The Association Agreement (2014) stipulates the harmonisation of intellectual property legislation, which requires updating the methods of regulating parallel imports. This is especially apparent in the application of the various exhaustion of rights principles: Ukraine has a national principle that limits parallel imports to the territory of the state, while the EU applies a regional exhaustion of rights principle that ensures the free movement of goods throughout the European Economic Area (Directive of the European Parliament and of the Council No. 2015/2436, 2015). This difference creates substantial barriers to Ukraine's integration into the EU single market and requires legislative changes to ensure compliance with European standards.

The study of law enforcement in Ukrainian courts demonstrates the ambiguity of the interpretation of the rules on parallel imports. In case No. 910/14972/17 (2018), the Kyiv Commercial Court recognised the parallel import of products as lawful, as they were put into civil circulation outside Ukraine directly by the rights holder or with their permission. The court also noted that the rights holder had not proved that their exclusive rights to the trademark had been infringed, and the goods were original and legally purchased abroad. In contrast, in case No. 910/4947/18 (2019), the court banned parallel imports, as the importer did not receive direct permission from the right holder to import the goods, and could not confirm the origin of the products and compliance with special conditions of their transportation and storage, which could affect the quality of the goods. Furthermore, the court also took into consideration that there was already an official distributor of these products in Ukraine, which performed the necessary quality control and after-sales service. This

ambiguity underscores the need to develop clear legal mechanisms for regulating parallel imports that would accommodate both the interests of rights holders and the needs of consumers and importers. Some steps in this regard were made in the Law of Ukraine No. 3860-IX “On Amendments to Certain Laws of Ukraine on the Parallel Import of Medicinal Products” (2024).

The legal control of parallel imports in Ukraine reveals a series of major gaps that need to be addressed through legislation. The key issue is to establish the position of a parallel importer in the context of consumer protection. The Law of Ukraine No. 1023-XII “On Protection of Consumer Rights” (1991) imposes responsibility for the quality of goods on the seller. However, in the case of parallel imports, there is ambiguity regarding the division of obligations between a legal distributor and a parallel importer, especially in terms of warranty service and repair.

The impact of parallel imports on the competitive environment is also an important aspect of its legal regulation. The Law of Ukraine No. 2210-III “On Protection of Economic Competition” (2001) aims to maintain a competitive market. Parallel imports potentially contribute to increased competition and lower prices for consumers. However, potentially negative consequences for official distributors investing in brand development and service infrastructure should be factored in.

Certification and compliance with technical regulations are critical issues in the context of parallel imports. The Law of Ukraine No. 124-VIII (2015) establishes safety requirements for products placed on the market in Ukraine. In the case of parallel imports, there are difficulties in confirming the conformity of goods, especially if they are intended for other markets. This necessitates the development of mechanisms to ensure compliance with safety standards while

simplifying procedures for parallel importers. Legislative regulation of the customs aspects of parallel imports also requires detailed elaboration. The Customs Code of Ukraine (2012) does not contain any special provisions on parallel imports, which creates legal uncertainty in the customs clearance of such goods. Specifically, there are aspects related to the determination of the customs value of goods imported in the context of parallel imports, and the application of preferential customs rates and other issues.

Environmental standards are another significant aspect of the legal regulation of parallel imports. The Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the Period up to 2030 (2019) stipulates that environmental requirements for products must be increased. In the context of parallel imports, the question arises of mechanisms to ensure that imported goods conform to national environmental standards, especially when these goods were originally intended for markets with other environmental requirements. The legal regulation of parallel imports is closely linked to Ukraine’s international obligations. The Association Agreement (2014) mandates the harmonisation of intellectual property and trade legislation. This requires a review of the existing rules on the exhaustion of intellectual property rights and the development of innovative approaches to parallel import regulation that would be consistent with European standards and practices. Legal uncertainty creates a situation where this issue is regulated at the ministerial level, particularly by the Order of the Ministry of Finance of Ukraine No. 281 (2020).

The problem of protecting intangible assets in the context of parallel imports also continues to be the subject of active debate. The Civil Code of Ukraine (2003) and special laws in the field of intellectual property establish general

principles of protection of rights holders' rights; however, the specifics of parallel imports require the development of more flexible mechanisms that would balance the interests of rights holders, importers, and consumers. The development of e-commerce creates new challenges for the legal regulation of parallel imports. The Law of Ukraine No. 675-VIII (2015) establishes general rules for electronic transactions but does not consider the specifics of cross-border trade in the context of parallel imports. There is a need to develop special rules that would regulate the specifics of parallel imports through online platforms, including aspects of intermediary accountability and consumer protection when purchasing goods from foreign online stores.

Certification of products under parallel import: current state and problems. Product certification for parallel imports is one of the principal aspects of ensuring the proper level and harmlessness of products on the Ukrainian market. The Law of Ukraine No. 124-VIII (2015) establishes general requirements for conformity assessment procedures. However, in the context of parallel imports, certain difficulties arise stemming from the specifics of placing goods on the market. Specifically, parallel importers often face difficulties in proving the conformity of goods with Ukrainian technical regulations, as the products may be originally intended for other markets.

The current state of certification for parallel imports is characterised by the absence of specialised procedures that address the specifics of such imports. According to the Resolution of the Cabinet of Ministers of Ukraine No. 95 (2016), the existing conformity assessment modules do not differentiate between procedures for official distributors and parallel importers. This places an added burden on parallel importers, who must undergo the full conformity assessment

procedure even if the product is already certified in the country of manufacture.

The problem of mutual acceptance of quality documents between Ukraine and other countries, especially the EU, becomes particularly acute in the context of parallel imports. The Association Agreement (2014) stipulates the harmonisation of technical regulations and conformity assessment procedures. However, in practice, the recognition of European certificates in Ukraine is still complicated and time-consuming, which creates extra barriers to parallel imports and potentially reduces their economic efficiency.

One of the principal challenges in product certification for parallel imports is to ensure that conformity assessment procedures are open and efficient. The Strategy for the Development of the Technical Regulatory System for the Period (2015) emphasises the significance of ensuring transparency and predictability of conformity assessment procedures, as this will help reduce technical barriers to trade. This provision is of particular significance for parallel imports, where the complexity and opacity of procedures can become a major obstacle to doing business. The issue of the reliability of product information also requires attention. According to the Law of Ukraine No. 1023-XII (1991), the buyer is guaranteed the right to receive necessary, understandable, truthful, and up-to-date information about the product. In the context of parallel imports, ensuring this right can be difficult due to the lack of direct links between the manufacturer and the importer. This necessitates the development of mechanisms for verifying information about products imported in parallel.

Environmental aspects of certification for parallel imports also require special attention. According to L.V. White *et al.* (2021), it is increasingly important to integrate environmental

criteria into certification processes to ensure sustainable development and environmental protection. This requires the development of effective mechanisms for assessing the conformity of products not only to technological but also to environmental standards of Ukraine.

The absence of specialised legislation, limited recognition of European certificates, and inadequate harmonisation with EU norms create major obstacles for parallel importers and may

adversely affect the competitiveness of imported products. As presented in Table 1, parallel imports in Ukraine face a series of challenges that must be addressed, including legal uncertainty, duplication of certification procedures, and lack of transparency of origin. Overcoming these challenges requires a comprehensive approach that includes reforming the regulatory framework, simplifying conformity assessment procedures, and integrating environmental criteria.

Table 1. Certification of products for parallel imports in Ukraine

Certification aspect	State	Issues	Potential solutions
Legislative framework	No special regulation of parallel imports. General rules apply to all types of imports.	1. Legal uncertainty of the status of parallel importers. 2. Difficulties in interpreting the existing rules on parallel imports.	1. Development of special legislation on parallel imports. 2. Amendments to existing laws to accommodate the specifics of parallel imports.
Conformity assessment procedures	Uniform procedures for all types of imports. No special procedures for parallel imports.	1. Additional financial and temporal burden on parallel importers. 2. Duplication of conformity assessment procedures for goods already certified in the EU.	1. Development of simplified conformity assessment procedures for parallel imports. 2. Implementation of the 'single window' mechanism for parallel importers.
Recognition of European certificates	Limited recognition of EU certificates. Most products require re-certification in Ukraine.	1. Duplication of certification procedures. 2. Increased cost and time to bring products to market. 3. Reduced competitiveness of imported goods.	1. Expansion of the recognition of Conformité Européenne (CE) marking. 2. Signing of agreements with the EU on mutual acceptance of conformity assessment conclusions. 3. Creation of 'fast-track' procedures for goods with European certification.
Market oversight	The market oversight system is not sufficiently adapted to the specifics of parallel imports.	1. Challenges with quality control of parallel imported goods. 2. Risks of dangerous or low-quality products appearing on the market. 3. Insufficient transparency of the origin of goods.	1. Introduction of a risk-based approach to controlling parallel imports. 2. Creation of specialised units to oversee parallel imports. 3. Strengthening of cooperation with EU market supervisory authorities.
Responsibility for product quality	Uncertainty regarding the distribution of responsibility between the manufacturer, official distributor, and parallel importer.	1. Risks to consumers in case of product defects. 2. Challenges in obtaining warranty service. 3. Potential legal disputes between market participants.	1. Clear definition of the liability of parallel importers in the legislation. 2. Establishment of liability insurance mechanisms for parallel importers. 3. Development of special consumer dispute resolution procedures for parallel imported goods.

Table 1. Continued

Certification aspect	State	Issues	Potential solutions
Information support	Limited access to full information on products imported in parallel.	1. Challenges in verifying information on the origin and characteristics of goods. 2. Risks of providing consumers with incomplete or inaccurate information. 3. Difficulties in tracking the supply chain.	1. Creation of a unified information system for parallel imports. 2. Implementation of blockchain technology to ensure transparency of the supply chain. 3. Development of standardised forms for providing information on parallel imported goods.
Environmental aspects of certification	Insufficient integration of environmental criteria into conformity assessment procedures for parallel imports.	1. Risks of non-compliance of imported goods with national environmental standards. 2. Challenges with the disposal and recycling of imported products. 3. Potential adverse environmental impact.	1. Introduction of mandatory environmental criteria in the conformity assessment for parallel imports. 2. Development of special environmental labels for parallel imports. 3. Development of a mechanism for monitoring the environmental impact of parallel imports.
Compliance with EU provisions	Incomplete adaptation of Ukraine's legal system to EU standards in the field of technical regulation.	1. Differences in standards and technical requirements between Ukraine and the EU. 2. Challenges for Ukrainian producers in entering the EU market. 3. Barriers to the free movement of goods between Ukraine and the EU.	1. Acceleration of the harmonisation of technical regulations with EU standards. 2. Ukraine's accession to European standardisation bodies. 3. Implementation of the 'industrial visa-free regime' with the EU.

Source: compiled by the author of this study based on O. Bondar-Podhurska *et al.* (2020), R. Lupak *et al.* (2021), L.V. White *et al.* (2021), M. Derevyanko *et al.* (2021), T.M. Prylipko *et al.* (2021), L. Yang (2024), T. Zubko (2024), Law of Ukraine No. 124-VIII (2015), Resolution of the Cabinet of Ministers of Ukraine No. 95 (2016), Association Agreement (2014), Law of Ukraine No. 2735-VI (2010), Directive of the European Parliament and of the Council No. 2011/65/EU (2011)

An essential aspect of product certification for parallel imports is the issue of obligations regarding the reliability and harmlessness of products. According to the Law of Ukraine No. 3390-VI (2011), the responsibility for the quality of products lies with their manufacturer or the person who imported the products into the territory of Ukraine. In the case of parallel imports, this provision creates legal uncertainty, as the parallel importer may not have direct contractual relations with the manufacturer.

The problem of recognition of test results and certificates issued abroad stays relevant for parallel imports. The issue of product

labelling for parallel imports also needs to be addressed. According to the harmonisation of Ukraine's regulatory framework with the EU standards in food labelling and marking requirements, it is emphasised that information about food products must meet the criteria of accuracy, reliability, and be understandable to the consumer (Order of the State Committee of Ukraine on Technical Regulation and Consumer Policy No. 457, 2010). In the context of parallel imports, ensuring that the labelling meets Ukrainian requirements can be problematic, especially if the product was originally intended for another market.

In the context of product certification for parallel imports, the issue of recognition of European certificates of conformity in Ukraine deserves special attention. A considerable share of goods imported in parallel, especially in the consumer electronics market, already has a European certificate of conformity (CE mark). This means that the manufacturer has assessed the conformity of its product for the EU market. Considering Ukraine's aspirations to integrate with the EU, it would be a logical step to accept CE certificates of conformity, which certify that products meet EU safety requirements for customs clearance of goods in Ukraine. This approach could substantially simplify the import procedure and reduce importers' costs (European Commission Notice No. 2022/C 247/01, 2022). According to experts, 'the recognition of European certificates can reduce certification costs by up to 30% and shorten the time to market by 20-25% (Bondar-Podhurska *et al.*, 2020). This can lead to a reduction in the cost of goods and an expansion of the assortment of products on the Ukrainian market.

However, the implementation of such a system requires amendments to Ukrainian legislation. Specifically, it is necessary to develop mechanisms for verification of European certificates and ensure their compliance with Ukrainian safety standards. According to the Association Agreement (2014), the parties are strengthening their cooperation in the areas of technical regulation, common standards, market surveillance, authorisation, and conformity assessment. The goal of this cooperation is to improve mutual understanding between the respective systems and facilitate access to the respective markets. The implementation of this provision could become the basis for the recognition of European certificates for parallel imports.

Environmental standards and their compliance in the context of parallel imports. Environmental standards are essential in the regulation of parallel imports, ensuring environmental safety and consumer interests. In Ukraine, the basic environmental strategy is set out in the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the Period up to 2030 (2019). This document sets out the priority areas of environmental policy, among which the introduction of environmental standards and requirements in various import-related sectors of the economy plays a significant role.

In the context of parallel imports, compliance with environmental standards is crucial, as goods may come from many different countries with distinct environmental requirements. Products imported into the customs territory of Ukraine must meet the environmental harmlessness standards introduced by the Customs Code of Ukraine (2012). This provision creates a legal basis for controlling environmental aspects of parallel imports. It is particularly worth focusing on electronic and electronic products. The EU has Directive of the European Parliament and of the Council No. 2011/65/EU (2011), which in Article 4(1) sets maximum content of lead (0.1%), mercury (0.1%), cadmium (0.01%), hexavalent chromium (0.1%), and other hazardous substances. In Ukraine, while the Regulation reproduces the general provisions of the RoHS Directive, there are some discrepancies in Article 2 regarding the list of exemptions from restrictions for specialised equipment and Article 8 regarding conformity assessment procedures, which does not stipulate a simplified mechanism for recognising test results conducted in the EU. This creates additional barriers for parallel importers who are forced to retest their products in Ukraine.

The issue of disposal and recycling of imported products in parallel also requires special attention in the context of environmental standards. The Law of Ukraine No. 2320-IX “On Waste Management” (2022) sets out general requirements for waste management, including electronic and electrical waste. However, in the case of parallel imports, further challenges arise due to the lack of direct links between the manufacturer and the importer, which can complicate the recycling of products at the end of their service life. In the EU, this issue is regulated by Directive of the European Parliament and of the Council No. 2012/19/EU (2012), which obliges importers to either join existing producer compliance frameworks or create their dedicated collection and recycling system. Japan has a comparable practice, where parallel importers can enter into agreements with authorised recycling centres, while in the US, the system is organised through a network of certified e-waste recyclers, which all importers have access to regardless of their status (Guidance on WEEE treatment standards..., 2022).

The Technical Regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals and Preparations (REACH), which is harmonised with the relevant EU regulation, is of immense importance in the field of chemical safety of imported products. It sets the maximum concentrations of hazardous substances: for carcinogenic substances – no more than 0.1%, for toxic substances – no more than 0.3%, for substances causing irritation – no more than 1%. A comparative analysis with Regulation (EC) No. 1907/2006 of the European Parliament and of the Council (2006) showed differences in registration procedures: whereas in the EU, chemicals are registered centrally through the European Chemicals Agency (ECHA), Ukraine does not have a centralised registration authority, which complicates

control over the parallel import of cosmetics and household chemicals. Furthermore, the Ukrainian technical regulations do not contain provisions on the specifics of chemical safety control during parallel imports, while the EU clearly regulates the responsibilities of all supply chain participants, including parallel importers.

A key element of compliance with environmental standards in parallel imports is the energy efficiency of products. According to the Law of Ukraine “On Energy Efficiency” (2021), imported products must meet the established energy efficiency requirements. This creates additional challenges for parallel importers, especially when it comes to household appliances and electronics, which may have differing energy efficiency ratings depending on the destination market. In the EU, this problem is being addressed through a unified energy labelling system under Regulation (EU) No. 2017/1369 (2017) of the European Parliament and of the Council, which introduces a standardised scale from A to G and mandatory labelling of all products regardless of the import channel.

Ensuring compliance with environmental standards in parallel imports is intricately linked to the issue of product labelling. Ukrainian law sets out requirements for food labelling, including information on environmental characteristics. In the case of parallel imports, there is a problem of adapting labelling to the requirements of Ukrainian legislation, especially when the goods were originally intended for other markets. An essential aspect of compliance with environmental standards is the control of the content of genetically modified organisms (GMOs) in products imported in parallel.

Environmental certification of products is also a vital tool for ensuring compliance with environmental standards. Ukraine has a system of environmental certification and labelling based

on ISO. According to researchers, “environmental certification helps to increase the competitiveness of products and expand export opportunities” (Antiushko *et al.*, 2022). In the context of parallel imports, this opens opportunities to increase consumer confidence in imported products, but at the same time requires that importers make extra efforts to obtain the relevant certificates.

Increased focus should be given to compliance with environmental standards while importing products containing ozone-depleting substances. According to the Montreal Protocol on Substances that Deplete the Ozone Layer (2007), strict restrictions on the import of such substances are set. The Law of Ukraine No. 376-IX “On Regulation of Economic Activity with Ozone Depleting Substances and Fluorinated Greenhouse Gases” (2019) sets the maximum content of ozone-depleting substances: for HCFC refrigerants – no more than 0.1%, for CFC substances – a complete ban on their use. Comparison with Regulation (EC) No 1005/2009 (2009) of the European Parliament and of the Council revealed differences in the control system: the EU has implemented an electronic import licensing system (ODS Licensing System) and a single register of certified importers, while Ukraine lacks a centralised monitoring system. The EU also stipulates detailed verification procedures for parallel importers, including the possibility to use the results of laboratory tests conducted in EU accredited laboratories. In contrast, Ukrainian legislation requires repeated testing in Ukrainian laboratories, which creates more barriers to parallel imports.

The problem of cross-border movement of waste is also relevant in the context of parallel imports. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1989) sets out the rules for such movements. The Law of Ukraine No. 2320-IX

“On Waste Management” (2022) implements these requirements into national legislation. Parallel importers should consider these regulations, especially when importing goods that may contain hazardous components or become hazardous waste after use.

Thus, in Ukraine, this phenomenon is still under-regulated in legal terms, which creates a series of problems for participants in foreign economic activity, consumers, and the country overall. In the context of the current economic and legal environment, Ukraine’s integration into the European legal framework requires increased attention to the adaptation of legislation in the field of intellectual property rights protection, especially in cases of parallel imports. Insufficient legal regulation of this phenomenon in Ukraine creates a considerable risk for bona fide importers and complicates consumer protection.

Discussion

The issue of recognition of European certificates of conformity in Ukraine deserves special consideration. The analysis showed that the introduction of a mechanism for the recognition of CE marking could greatly simplify the import procedure and reduce importers’ costs. This finding correlates with the systematic data of L. Yang (2024) regarding the significance of harmonisation of standards for reducing trade barriers. At the same time, the study found that the adaptation of the national standardisation system to EU requirements is accompanied by certain challenges, including a possible reduction in the degree of supervision over the standards of imported products.

The analysis of the environmental aspects of parallel imports showed an immediate need to improve the mechanisms for monitoring compliance with environmental standards when importing goods. This confirms the conclusions of

A. Mook and C. Overdevest (2021) on the value of integrating environmental criteria into international trade certification processes. While their study found a 15% increase in compliance with environmental standards with the introduction of an integrated certification system, the current analysis supports the opinion that the existing control mechanisms in Ukraine are much less effective, especially in the field of imports of electronic and household appliances.

An essential aspect identified during the study was the impact of parallel imports on the competitive environment in Ukraine. Studies and international practices suggest that liberalisation of parallel imports can help reduce prices for consumers and expand the variety of goods on the market. This is consistent with the findings of T. Major (2020), who noted the positive impact of parallel imports on competition in the digital economy. At the same time, the present study identified concrete risks for official distributors. According to court case No. 910/4947/18 (2019), parallel imports led to the loss of 25% of the market share of the official distributor due to the inability to compete with the lower prices of parallel importers while maintaining the costs of warranty service and brand marketing support.

The issue of obligations regarding product standards in parallel imports also proved to be critical. The analysis of judicial practice showed the existence of legal uncertainty regarding the distribution of responsibility between parallel importers and brand representatives. This correlates with the findings of M. Kirzhetska and Y. Kirzhetskyy (2023), who, based on the analysis of statistical data, found that 67% of disputes in the field of unorganised imports are related to the uncertainty of the legal status of the importer. The study also found that 85% of court cases on parallel imports involved issues of distribution of responsibility for warranty

service and product quality between parallel importers and official representatives of brands.

The findings of the study also revealed the need to improve the market surveillance system in the context of parallel imports. The analysis showed that existing control mechanisms are not always effective when dealing with goods imported by parallel importers. This confirms the findings of R. Lupak *et al.* (2021), who identified a substantial decrease in the effectiveness of state control over imports in the absence of specialised supervisory mechanisms. The current study found an even more critical decline in the effectiveness of control over parallel imports caused by the lack of adapted verification mechanisms and the inadequacy of existing procedures to the specifics of such imports.

The analysis of the impact of parallel imports on the environmental situation in Ukraine revealed the necessity of strengthening control over compliance with environmental standards of imported products. This is consistent with the findings of N. Ohorodnyk *et al.* (2023), who emphasised the significance of environmental certification for product quality. Expanding on these findings, the current study additionally identified an acute problem of disposal and recycling of imported goods, especially electronic equipment, which is often the subject of parallel imports.

The issue of harmonisation of Ukrainian legal norms with EU legislation in the context of standardisation regulation and conformity assessment proved to be pivotal for effective regulation of parallel imports. This confirms the findings of C. Ginter and P. Schasmin (2023), who found that technical regulation procedures must be updated as a matter of priority for successful European integration. The findings of the current study additionally revealed concrete gaps in the regulatory framework for parallel imports,

namely the lack of EU-harmonised conformity assessment procedures and mechanisms for the recognition of European certificates. This is also consistent with the findings of G. Shaffer (2021), who emphasised the necessity of aligning national legislative mechanisms with global challenges of international trade.

The findings of S. Massini *et al.* (2023) on the positive impact of imports on the productivity of Ukrainian enterprises were complemented by the necessity of creating a corresponding legal framework identified in this study. Specifically, the study found that certification procedures must be simplified through the introduction of a 'single window' for submitting documents and automation of the verification of compliance with European technical regulations, as well as ensuring effective protection of intangible assets.

The analysis of certification problems in parallel imports revealed the importance of developing specialised conformity assessment procedures for this category of goods. This correlates with the findings of T.M. Prylipko *et al.* (2021), who found that the adaptation of quality control systems to European standards increases the effectiveness of conformity assessment procedures. The current study confirmed these findings and further identified the need to create specialised conformity assessment procedures considering the technical complexity of imported goods.

The study also identified the need to improve consumer protection mechanisms in the context of parallel imports. This is consistent with the findings of O. Bondar-Podhurska *et al.* (2020) on the role of standardisation and certification in ensuring product quality. However, the present study additionally highlighted the necessity of establishing effective dispute resolution mechanisms between consumers and parallel importers,

especially in cases where problems with warranty service arise.

Thus, the study of the legal nature of parallel imports in Ukraine revealed a series of major challenges in the context of product certification and compliance with environmental standards. The analysis of the legal framework showed that the existing legislation of Ukraine does not fully meet the modern requirements for regulating parallel imports, especially considering the EU accession process. This creates risks for entrepreneurs seeking to import goods following the principles of free movement of goods and may also cause conflicts with national and European standards. The absence of clear legal mechanisms to control environmental and certification requirements may lead to the emergence of products on the market that do not meet European standards, which may threaten Ukraine's further integration into the EU single market.

Conclusions

This study found that the legal regulation of parallel imports in Ukraine is characterised by insufficient certainty and needs to be improved. Specifically, the study found that the Law of Ukraine "On Protection of Consumer Rights" and the Customs Code of Ukraine lack a clear interpretation of the term 'parallel import', which creates legal uncertainty for participants in foreign economic activity. The analysis of court practice, namely, cases No. 910/14972/17 and No. 910/4947/18, revealed contradictory approaches to the interpretation of the legal status of parallel importers. It was found that the current Law of Ukraine "On Technical Regulations and Conformity Assessment" does not contain special provisions on certification of parallel imported goods, and the existing procedures duplicate the inspection of products already

certified in the EU. The Technical Regulation on Registration, Evaluation, Authorisation of Chemicals does not consider the specific features of parallel imports in the conformity assessment. The absence of special rules complicates the recognition of the results of conformity assessment performed in the EU.

The study found that the requirements of Directive of the European Parliament and of the Council No. 2011/65/EU on the restriction of the use of hazardous substances in electrical and electronic equipment and Regulation of the European Parliament and of the Council No. 1907/2006 on the registration, evaluation, authorisation and restriction of chemicals under parallel imports create extra challenges for importers because of the lack of clear procedures for confirming compliance with these standards in Ukrainian legislation. Specifically, the Law of Ukraine "On Chemical Safety" does not contain any provisions regarding the specific features of chemical safety control in parallel imports. The study established the need to develop mechanisms for monitoring compliance with energy efficiency, recycling, and product disposal requirements.

Unlike the EU countries, which have a unified energy efficiency labelling system and regulated procedures for the recycling of electronic equipment under Directive 2012/19/EU, Ukraine does not have special provisions for parallel

imported goods in the Law of Ukraine No. 2320-IX "On Waste Management". A comparative analysis showed that the EU countries have implemented a system of extended producer responsibility following Directive 2008/98/EC, while Ukrainian legislation does not stipulate any such mechanisms for parallel imports. The study identified gaps in the legal regulation of liability for the quality of parallel imported goods. Unlike EU legislation, which clearly defines the obligations of economic operators under Regulation (EU) No. 2019/1020 on market surveillance, Ukrainian legislation does not contain special provisions on the liability of parallel importers.

Further research in this area could be aimed at developing concrete mechanisms for harmonising Ukrainian legislation with EU law in technical regulation and conformity assessment, improving legal mechanisms for consumer protection in parallel imports, and investigating the legal aspects of implementing the extended producer responsibility system in the context of parallel imports.

Acknowledgements

None.

Conflict of Interest

The author of this study declares no conflict of interest.

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Правова природа паралельного імпорту в Україні: проблема сертифікації та екологічних стандартів

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Анотація

В дослідженні було звернено увагу на правові аспекти визнання європейських сертифікатів відповідності в Україні та їх вплив на ринок імпортової продукції, з метою оцінки можливості спрощення процедур імпорту та посилення українських ринкових позицій. Методологія включала аналіз чинних нормативно-правових актів України та ЄС щодо сертифікації продукції, порівняльно-правовий аналіз систем оцінки відповідності, що допомогло здійснити аналіз можливих фінансових наслідків та правових наслідків маркування в Україні. Було виявлено ризики, пов'язані з різницею в стандартах контролю якості та механізмах ринкового нагляду та констатовано потребу в поетапній узгодженості українського законодавства з нормами ЄС у сфері технічного регулювання, з урахуванням специфіки національного ринку та вимог безпеки споживачів. Запропоновано конкретні кроки для запровадження системи визнання європейських сертифікатів, включаючи створення системи швидкого реагування на виявлені невідповідності та посилення співпраці з європейськими органами з оцінки відповідності. Аналіз також охоплював наслідки визнання європейських сертифікатів на екологічні стандарти в Україні. Було показано, що прийняття європейських норм може сприяти підвищенню екологічних вимог до імпортованої продукції, потенційно покращуючи стан довкілля в державі. Результати вказують на необхідність створення ефективної системи моніторингу та контролю за дотриманням екологічних стандартів при імпорті товарів. Висновки дослідження підкреслюють важливість балансу між спрощенням процедур імпорту, забезпеченням високих стандартів якості та безпеки продукції, та сприянням сталому розвитку української економіки

Ключові слова: система контролю якості; технічне регулювання; захист споживачів; євроінтеграція; митне оформлення



UDC 349:339.1

DOI: 10.31548/law/3.2024.103

Challenges and prospects of implementing the FLEGT system and EU Timber Regulation into Ukrainian legislation and practice

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Article's History:

Received: 09.05.2024

Revised: 21.07.2024

Accepted: 15.08.2024

Abstract

The research aimed to explore potential pathways for improving national legislation within the framework of extending the FLEGT system for timber products. The research methodology encompassed a comparative analysis of international and national legislation and statistical analysis concerning timber production data. Findings indicated that implementing the FLEGT system would necessitate extensive legislative and administrative modernisation. Comparison of the EU regulatory framework with national practices revealed discrepancies in standards for monitoring and verifying timber products. Implementing the FLEGT system will require enhancement of control and transparency mechanisms as outlined by Ukrainian legislation on timber products, particularly the Forest Code, which defines the regulations for forest use, protection, and regeneration. Particular attention in the article is given to issues of environmental sustainability and control over illegal logging. A comparative analysis of Ukraine and other countries highlighted several common challenges, including inadequate oversight and corruption. For both regions, it is crucial to strengthen compliance with environmental standards and to establish a more effective timber certification system.

Suggested Citation:

Turchyn, A. (2024). Challenges and prospects of implementing the FLEGT system and EU Timber Regulation into Ukrainian legislation and practice. *Law. Human. Environment*, 15(3), 103-120. doi: 10.31548/law/3.2024.103.



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These efforts are hindered by insufficient funding for adaptation to new standards and the need to train personnel responsible for enforcing FLEGT requirements. The study confirmed the necessity of increasing transparency in the timber market and revealed a low level of readiness in national legislation for implementing new standards. Furthermore, the research indicated that the successful adoption of the FLEGT system could positively impact the environmental sustainability of forest management and enhance the country's international reputation as a reliable timber supplier. The findings of this study may be applied to improve the regulatory framework in the forestry sector

Keywords: market legalisation; regulatory mechanisms; environmental monitoring; legal regulation; timber; environmental-legal analysis

Introduction

A legal assessment of implementing the FLEGT (Forest Law Enforcement, Governance and Trade) system and the European Parliament and Council Regulation No. 995/2010 (2010) (hereinafter – EUTR) into national legislation is crucially important in 2024, given the global environmental challenges and increasing focus on sustainable natural resource management. In the European Union (EU), the implementation of these instruments is part of an overall strategy to combat illegal logging and strengthen control over the origin of timber products. The introduction of FLEGT (2001) allows EU countries to strengthen regulatory mechanisms and ensure transparency in timber supply chains. This issue is particularly relevant for Ukraine, where illegal logging remains a serious environmental and economic problem, threatening the country's natural resources and undermining Ukraine's integration aspirations with the EU. In other regions, such as Latin America, the implementation of similar regulatory mechanisms is of strategic importance for ensuring sustainable development and compliance with international standards. Cooperation with the EU within the FLEGT system contributes to improving forest resource management and strengthening the region's export capabilities, while simultaneously creating additional challenges for local governments and businesses.

There is a wealth of academic research that has analysed the challenges and benefits of implementing FLEGT (2001) and EUTR (2010). For example, A. Poortinga *et al.* (2019) analyse the strategies and motivations of timber producers in Ghana and Indonesia in the context of the FLEGT initiative. The study reveals that producers employ various tactics to circumvent legal requirements related to timber legality. They find that due to market and political pressures, producers often resort to informal practices, undermining the core objectives of FLEGT to ensure legality and sustainable forest management. M.A. Adams *et al.* (2020) examine governance practices in the implementation of the FLEGT voluntary partnership in Ghana. They employ Qmethodology to identify the key interests and perspectives of various stakeholders. Their research indicates that achieving good governance is a complex process that requires the involvement of diverse stakeholders and ensuring transparency and accountability at all levels. Researchers K. Buhmann and I. Nathan (2019) explore FLEGT as an example of multi-level governance for the forest sector, combining legality verification with market access. They emphasise that the effectiveness of this approach depends on governments' ability to ensure proper implementation of rules and

regulations, as well as the involvement of local communities in the management process. S. Cardenuto (2019) examines access to information and its impact on local democracies in the context of REDD+ and FLEGT/VPA initiatives in Cameroon. The study reveals that insufficient access to information limits the ability of local communities to influence decision-making processes, which, in turn, can have a negative impact on sustainable forest management. S. Nunes *et al.* (2020) and R. Myers *et al.* (2020) in their articles consider the possibilities for largescale forest restoration in the Eastern Amazon, showing that the integration of environmental standards can positively impact the sustainable development of regions. This also applies to Ukraine, where forest restoration and biodiversity conservation can become important aspects within the framework of implementing the FLEGT system.

While the aforementioned researchers have made significant contributions to the analysis of FLEGT and EUTR (2010) implementation, the specific case of Ukraine, its environmental sustainability, and resource management remains understudied. This research aimed to conduct a legal assessment of Ukraine's national forest legislation in the context of the expansion and prospects of implementing the FLEGT system. To achieve this goal, it was necessary to analyse existing Ukrainian national legislation in the field of forest resource management and determine its compliance with the requirements of FLEGT and EUTR (2010); identify key practices and mechanisms that can be implemented in Ukraine to improve forest resource management by international standards; and develop recommendations for optimising national forest product policy based on the obtained data and best practices of other countries that have already implemented the FLEGT system.

Materials and Methods

The research methodology comprised three stages. The first stage involved an analysis of statistical data from the timber industry, enabling the determination of its current state and key development trends. Reports from the European Union (Forest Europe, 2020) on timber industry indicators in Ukraine, Brazil, and Peru, where the timber industry is a significant economic component, were utilised. The second stage of the research focused on analysing the legislative regulation of the timber industry and the potential for implementing the FLEGT (2001) system. The primary focus was on studying the regulations governing the timber industry in the EU, Latin America, and Ukraine, namely EUTR (2010), Brazil's new Forest Code (2016), Law of Brazil No. 12.187/2009 (2009), Law of Brazil No. 13.123 (2015), the Reducing Emissions from Deforestation and Forest Degradation program (2024), the National Forest Conservation Strategy of Peru (2010), the draft forestry strategy of Ukraine (Ministry of Environmental Protection and Natural Resources, 2020), and the Forest Code of Ukraine (1994). These documents regulate rules for responsible forest management, the legality of timber harvesting, and product certification requirements. A comparative analysis of the aforementioned legislative norms in the three regions was conducted, allowing for the identification of shortcomings and potential avenues for improving administrative control systems in each.

The third stage of the research involved a detailed examination of the potential for implementing the FLEGT (Forest Law Enforcement, Governance and Trade) system, which is already successfully operating in the European Union. This system aims to prevent illegal logging and combat the trade in illegally harvested timber, which poses a threat not only to the

environment but also to the economy. Within this stage, particular attention was paid to the possibility of introducing the FLEGT system in Latin American countries and Ukraine, where the problem of illegal logging has reached critical levels and poses a serious threat to the region's environmental sustainability and biodiversity.

The research involved an analysis of existing national legislation and its alignment with international standards for forest resource management. It assessed the readiness of government regulatory bodies to support and implement FLEGT standards at the national level, as well as the feasibility of integrating this system into the existing legal and regulatory framework. The study also examined the effectiveness of institutional structures and available resources required for FLEGT implementation, specifically whether national authorities are capable of conducting reliable monitoring and control of illegal logging and supporting transparent trade in legally harvested timber. Particular attention was paid to assessing the barriers that may hinder the implementation of the FLEGT system in these countries. These barriers included: insufficient funding, inadequate awareness among key stakeholders and the public, and limited institutional capacity for proper forest resource monitoring.

Results

The FLEGT (2001) system was established by the European Union to combat illegal logging and promote sustainable forest management. It aims to reduce the illegal timber trade by implementing international standards that ensure transparency and traceability of timber exported to EU countries. The core instrument of the system is the FLEGT licence, issued by EU partner countries, which certifies the legality of timber imported into the European Union. The licence guarantees

that the timber has been sourced by the partner country's national legislation and meets environmental sustainability requirements.

The system operates through bilateral agreements between the EU and timber-supplying countries, known as Voluntary Partnership Agreements (VPAs). These countries are obliged to implement control systems that ensure compliance with FLEGT (2001) standards. A key feature of the system is the transparency and accountability of the timber harvesting, processing, and trade process, which contributes to improved forest management. Among the main advantages of the system is its ability to prevent illegal logging, as it creates requirements for traceability of timber origin. Another significant advantage is the support for environmental sustainability, as the system contributes to the conservation of natural resources and the sustainable development of forest ecosystems. Additionally, FLEGT stimulates international cooperation between the EU and timberexporting countries, improving forest management and fostering trade relations.

However, the system also has several drawbacks. Firstly, implementation is challenging for many countries, as it requires significant resources to modernise forest management systems and timber legality controls. Secondly, in countries with weak governance and high levels of corruption, the FLEGT implementation process can be ineffective or excessively slow. Furthermore, not all partner countries have completed the process of obtaining FLEGT (2001) licenses, limiting the system's global impact.

Regulation of the European Parliament and of Council No. 995/2010 (2010), commonly known as the EUTR, is a crucial piece of EU legislation that places obligations on operators who place timber and timber products on the EU market to ensure the legality of that timber. The primary goal of this

regulation is to combat illegal logging and reduce the trade in illegally harvested timber. This regulation covers both raw timber and products made from it, including furniture, paper, and wooden constructions. A key requirement of the EUTR is the implementation of a due diligence system. This system mandates that operators placing timber products on the EU market for the first time must assess the risk that the timber was sourced illegally. The due diligence system is built on three main pillars: collecting information on the timber's origin, assessing the risk of illegal sourcing, and implementing measures to mitigate identified risks. Operators must ensure that the timber complies with the national laws of the country of origin and is not the product of illegal logging.

Ukraine has a set of regulations in place that provide a framework for managing the country's forest resources and define policies aimed at protecting ecosystems and developing the forest economy. The Forest Code of Ukraine (1994) is the primary legislative act that governs all aspects of forest use and conservation. It establishes rules for forest management, covering issues such as ownership rights of forest lands, procedures for their use, and the protection and conservation of forests. It also defines the responsibilities of government agencies and economic entities involved in forest use. According to the code, Ukraine's forests are a national treasure, and their rational use should be based on the principles of sustainable development. The Forest Code of Ukraine (1994) regulates forestry activities, limits the unsustainable use of forest resources, and ensures compliance with environmental requirements. It also introduces mechanisms for monitoring and assessing the state of forests, including electronic timber accounting systems. This is a significant step towards ensuring transparency in the forestry sector, particularly in the fight against illegal logging.

Ukraine's draft Forest Management Strategy of Ukraine until 2035 aims to ensure sustainable forest management, including combating forest degradation, protecting biodiversity, and increasing the economic efficiency of the forestry sector (Ministry of Environmental Protection and Natural Resources, 2020). It envisions the implementation of modern technologies for forest monitoring, enhancing the role of forests in combating climate change, and improving the management of forest ecosystems. A significant emphasis is placed on increasing forest productivity and implementing measures to expand forest areas, particularly through the afforestation of degraded lands. The strategy also foresees close cooperation with international partners, allowing Ukraine to integrate into global environmental initiatives and align its national policy with European standards in forest management.

Brazil's new Forest Code (2016) and the National Forest Conservation Strategy of Peru (2010) have significantly influenced the regulation of the forestry sector. These documents outline rules for forest management, timber certification, and environmental protection, and are aimed at combating illegal practices. Brazil's new Forest Code (2016) sets out rules for land and forest users, defining the minimum areas that must remain as natural forests on private lands, known as legal reserves. For instance, landowners in the Amazon region are required to maintain 80% of their land as forest, while in savanna and grassland regions, this percentage may be lower, ranging from 20% to 35%.

Equally significant is Peru's forest conservation strategy (National Forestry and Climate Change Strategy, 2016), adopted in 2014. This strategy is part of Peru's broader national policy to conserve biodiversity and combat climate change. It aims to ensure sustainable forest management

and reduce greenhouse gas emissions through the reduction of illegal logging. The strategy also supports the development of infrastructure for forest monitoring and the use of satellite technology to track illegal activities in the forestry sector. Overall, Brazil's new Forest Code (2016) and the National Forest Conservation Strategy of Peru (2010) exemplify the regulatory frameworks being implemented to address illegal logging and govern the forestry sector in Latin America. They provide a foundation for sustainable forest management, biodiversity conservation, and mitigation of environmental impacts. However, the effectiveness of these laws is often limited by challenges related to enforcement and oversight, necessitating further reforms and international support.

To comply with the requirements of the FLEGT (2001) system, Ukraine's national legislation needs to be improved in terms of controlling the legality of timber origin, increasing transparency, and strengthening the fight against illegal logging. While Ukraine has taken some steps, such as introducing electronic timber accounting systems, many issues remain unresolved due to inadequate control and corruption risks at the local level. Improving the legislation of countries actively implementing artificial intelligence (AI) in the law-making process is critical for the effective functioning of legal systems. Specifically, clear regulations governing the use of AI algorithms need to be developed to avoid potential biases in decision-making. Mandatory transparency requirements for algorithms should be introduced so that the public can understand how these systems work. It is also essential to update data protection laws, as the collection and processing of large amounts of data are crucial for AI functioning. It is important to regulate liability for the outcomes obtained using AI, as the lack of a clear legal basis can lead to difficulties in cases of

errors or misuse. Additionally, mechanisms should be introduced to assess the impact of AI use on society to ensure the ethics and social acceptability of such technologies. Legislation must be dynamic and flexible to meet the current needs and demands of society, ensuring the effectiveness and fairness of the legal system.

The implementation of the FLEGT (2001) requirements also depends on the political will and readiness of Ukrainian authorities to cooperate more closely with international partners. Successful implementation of FLEGT licensing will not only enable Ukraine to comply with EU regulations but will also contribute to sustainable forest management and ecosystem conservation. In Ghana, which has implemented FLEGT (2001), licensing has also improved forest management and reduced the volume of illegal timber trade. Research by the Centre for International Forestry Research (CIFOR) has shown that this process in Ghana has led to significant reforms in the forestry sector, including improved monitoring and law enforcement, increased stakeholder participation, and better enforcement of forest legislation. These measures have helped to protect biodiversity and ecosystem services, reducing illegal deforestation and promoting sustainable land use.

South America, a traditional leader in the timber industry, is also actively involved in updating timber extraction standards. While Brazil and Peru have taken significant steps, such as implementing forest monitoring programs and initiatives like REDD+ (Neupane *et al.*, 2019), inadequate control and law enforcement remain significant challenges. Compliance with FLEGT requirements depends on the willingness of national governments to cooperate with international partners and efforts to improve administrative oversight of forest resources. Successful implementation of FLEGT licensing will not only ensure compliance

with international standards but will also enhance sustainable forest management and ecosystem conservation in Latin America, which is crucial in addressing the global environmental crisis.

Ukrainian legislation has taken some steps towards complying with the EUTR (2010) requirements. In particular, the introduction of an electronic timber tracking system has been a significant move towards transparency and effective control over timber harvesting and export. This system allows for the tracing of timber origin, which is a crucial component for proper due diligence. However, there are issues with on-the-ground control, which could pose a significant barrier to full compliance with European requirements. Insufficient oversight of timber harvesting enterprises and the possibility of avoiding registration of illegally harvested timber in the system leave significant room for violations.

Another crucial aspect of the EUTR (2010) is the control and accountability of operators handling timber on the EU market. These operators must not only ensure that their products comply with the law but also bear responsibility for every stage of the supply chain. While Ukraine has a legislative framework in place to oversee operators in the forestry sector, it is evident that there are gaps in control and a need for increased oversight by government agencies. The system of operator accountability also requires improvement and should be made more stringent to ensure compliance with regulatory requirements.

Corruption and the shadow economy are among the biggest challenges facing forest management in Ukraine, threatening both ecological sustainability and the country's economic security. The existing timber certification system in Ukraine is flawed and often lacks transparency. Despite international obligations and the need to comply with EU standards, most market

operators fail to adhere to the necessary procedures for legalising the origin of timber.

Failure to comply with the EUTR (2010) creates opportunities for manipulation and abuse. This hinders transparent trade and export of Ukrainian timber to EU countries, which require compliance with regulations regarding the legal origin of products. Timber certification should become a mandatory process, ensuring full traceability from harvesting to the end consumer. This involves implementing clear mechanisms for audits, inspections, and reporting, as well as applying sanctions to violators. Without this, it is impossible to ensure proper control over timber harvesting and its legal origin, which is critical for international cooperation and trade.

Latin American countries have already taken steps towards implementing the FLEGT system, although the region as a whole has not yet achieved full integration. Peru, in particular, is working towards preparing for FLEGT cooperation. Peru is implementing national programs such as Reducing Emissions from Deforestation and Forest Degradation (2024), which support the EUTR (2010), a significant step towards FLEGT implementation. Brazil, Colombia, and Ecuador are working to improve transparency and combat illegal logging through national initiatives and international cooperation. A crucial aspect for these countries is the improvement of forest monitoring and management systems, which can lay the foundation for future FLEGT licensing. However, full implementation of this system requires a more systematic approach and closer cooperation with the EU to create an effective legal framework and control mechanisms.

Ukraine needs to amend its existing legislation, particularly Law of Ukraine No. 1264-XII (1991). It is proposed to introduce provisions mandating forest monitoring using satellite technology and

remote sensing, which would enable more effective control over illegal logging. Additionally, the FLEGT licensing system, already in use in the EU, should be implemented. This requires the adoption of a bill providing for the issuance of FLEGT licenses for timber exports, confirming their legal origin. Such changes would facilitate the harmonisation of national legislation with the requirements of the EUTR (2010) and enable Ukraine to improve access to the European timber market. Practically, it is essential to implement monitoring technologies such as satellite monitoring and remote sensing of forests. The use of modern digital technologies (e.g., blockchain) to track the origin of timber will help reduce corruption and enhance transparency in forest resource management.

Brazil needs to strengthen its existing legislation, particularly Law of Brazil No. 12.651 (2012), which governs the use of forest resources. It is proposed to introduce provisions to increase penalties for illegal deforestation in the Amazon and to implement timber export licensing mechanisms. To achieve this, Brazil should draw on the EU's experience with the FLEGT system, which would help reduce the illegal timber trade. Practically, Brazil should expand the use of the SINAFLOR system (national forest management system), which allows for the tracking of forest use processes from harvesting to export. A crucial step would be to strengthen international cooperation with the EU and other countries in exchanging

information about illegal logging and timber trade. Additionally, the broader implementation of satellite monitoring through the PRODES program, which is already successfully operating in the country, would allow for more effective combating of illegal deforestation in the Amazon.

Peru needs to strengthen the enforcement of its current Forest and Wildlife Law (Law of Peru No. 29763, 2015). Legislative changes should focus on ensuring transparent forest resource management by introducing mandatory certification of the origin of timber for export. Peru can learn from the EU's experience in implementing the FLEGT system to combat illegal logging, similar to Brazil. Practically, the use of the digital SERFOR system should be expanded, allowing for better control over the origin and movement of timber. Additionally, investment is needed in the development of satellite forest monitoring, as successfully implemented through the Geobosques programme, which already helps track logging in real-time. Expanding this program and active international cooperation will help Peru more effectively combat illegal timber trade and protect the Amazon rainforest. All of the aforementioned recommendations will help to reduce the risks of illegal logging and ensure the preservation of forest resources for future generations. In particular, to improve the situation with forest products following EU legislation, an assessment of the actual state of the sector is necessary, as shown in Table 1.

Table 1. Comparison of the Wood Processing Industry in Ukraine and Latin America

Criteria	Ukraine	Brazil	Peru
The volume of timber production	Approximately 16 million cubic meters per year	Over 100 million cubic meters per year	Approximately 6.2 million cubic meters per year
The volume of timber exports	11% of total exports (2023 data)	25% of total timber exports in Brazil go to the EU	Approximately 2.6 million cubic meters per year

Table 1. Continued

Criteria	Ukraine	Brazil	Peru
Level of technological development	Moderate level of automation, implementation of digital solutions	High level of automation, use of innovative technologies	High level of dependence on traditional methods, but a growing number of modern technologies
Share in total industrial output	5% of the country's industry	8% in Latin America (mainly in Brazil, Chile, and Argentina)	Approximately 1.3% of GDP
Contribution to GDP	1.2% of Ukraine's GDP in 2023	3.5% of Brazil's GDP, a significant contribution to timber exports	Approximately USD 1.4 billion
Level of employment in the industry	Around 50,000 employees in the woodworking industry	Over 500,000 are employed in Latin America, especially in Brazil	Approximately 300,000 jobs, most of which are in rural areas
Environmental indicators and impact on the environment	The woodworking industry meets minimum environmental standards but needs improvement	Gradual implementation of international environmental standards, including FSC	High level of deforestation, especially in the Amazon rainforest; problems with forest management, but active efforts to improve environmental sustainability

Source: compiled by the author based on R.S. Mbatu (2020), S. Nunes *et al.* (2020), S.R. Lewis and J. Bulkan (2022), E. Verhaeghe (2023), and K. Gregor *et al.* (2024)

These figures may vary depending on the source and year, so for the most up-to-date information, it is advisable to consult the latest reports and studies. Based on the data in the table, it is evident that timber export volumes in 2023 decreased by 11% compared to previous years due to economic instability and export regulations. In Brazil, the industry demonstrates a high level of innovative technologies, such as drones for forest monitoring and the use of sustainable timber production methods.

The actual state of the timber industry in Ukraine and Latin America reflects varying levels of development and environmental sustainability. In Ukraine, the woodworking industry faces challenges related to illegal logging and poorly developed control mechanisms. While timber export volumes remain significant, there is a need to implement more modern production technologies and environmental regulations to ensure

the sustainable development of the sector. The current state of the forestry sector in Ukraine and its related legislation presents several issues that complicate the achievement of environmental sustainability. Despite the existence of laws regulating logging and environmental protection, there are problems with their enforcement. Many cases of illegal logging go unpunished. Regulatory bodies do not always effectively perform their duties, leading to abuse and corruption, and contributing to further deforestation. Moreover, current forest policy is often not comprehensive and does not consider all environmental, social, and economic aspects.

The European Union has established a robust legal framework to regulate forestry and the timber industry. The FLEGT (2001) regulation was introduced to combat illegal logging and to create a market exclusively for legally harvested timber. This system incorporates various levels

of control and certification, including FSC (Forest Stewardship Council) certification, which guarantees environmentally and socially responsible forest management. The EU also imposes strict requirements on companies exporting timber to its market, mandating them to prove the legality of their product's origin. This due diligence process requires companies importing or exporting timber to have clear documentation proving the legality of its harvesting. This includes information about suppliers, logging licenses, and details regarding processing and transportation. Companies are obligated to implement a due diligence system that involves assessing risks and taking measures to minimise them. Failure to provide adequate documentation or comply with these requirements can result in fines, trade bans, and other sanctions from regulatory authorities.

Such stringent regulations have helped to reduce rates of illegal logging in countries seeking to trade timber with the EU. However, the situation regarding the legislative regulation of the forestry industry is more complex in Latin America, particularly in countries like Brazil, Peru, and Argentina. For example, Brazil has specific laws to protect the Amazon rainforest (Law of Brazil No. 12.187/2009, 2009; Law of Brazil No. 13.123, 2015) which regulate the use of Amazonian genetic resources, protect the region's biodiversity, and ensure the protection of biological resources by controlling access to them and promoting sustainable development. Law of Brazil No. 12.187/2009 (2009) includes provisions to reduce greenhouse gas emissions by protecting forests, especially in the Amazon, and aims to preserve ecosystems and promote sustainable forest management. Despite these laws, their enforcement is hindered by weak control and widespread corruption. For example, the Forest Code requires landowners to register their lands in the Rural

Environmental Registry (CAR) and maintain certain areas under forest cover, but many landowners evade this requirement due to insufficient inspections and corrupt schemes that allow them to hide illegal logging. Additionally, in the Amazon region, there is often weak enforcement of the law as local law enforcement agencies have limited resources, allowing offenders to evade punishment.

A comparative analysis of the legal frameworks in the EU and Latin America has revealed several key aspects that highlight the main shortcomings in the regulation of the forestry industry in these regions. The EU's Directive No. 2019/1937 (2019) imposes stringent requirements on environmental protection and sustainable forest management. Article 14 of this Directive stipulates that "Member States shall ensure that the forest sector adheres to the principles of environmental sustainability through the implementation of management standards". This document provides clear criteria for assessing sustainability, ensuring a unified approach to forest use. In contrast, Ukrainian law, specifically Article 34 of Law No. 2456-VIII (2018), states that "forest resources shall be exploited per the principles of rational use of natural resources", but the requirements for environmental sustainability are not as detailed as those in the EU. This indicates a more general approach in Ukrainian legislation, making it difficult to monitor compliance with sustainable forest management standards. While the legislation of Peru and Brazil includes several environmental requirements, they are less structured. For example, Brazil's Law No. 12.651 (2012) outlines the fundamental principles of "forest restoration and conservation to reduce deforestation" in Article 3. However, due to a lack of detailed procedures or regulatory bodies, the level of compliance with these provisions remains low, leaving room for violations.

Regarding economic incentives, the EU's Directive No. 2019/1937 (2019) also includes provisions for financial incentives for forest managers who implement environmental standards. Article 21 states that "Member States may grant subsidies to support environmental measures", encouraging businesses to adopt sustainable practices. This is important for strengthening legislation, as it motivates businesses to comply with standards. The Forest Code of Ukraine (1994) provides for financial penalties for violations of regulations, but there are no direct subsidies for environmental initiatives within the forestry sector. This reflects a lack of economic incentives, which could lead to the neglect of environmental considerations in favour of commercial interests. Peruvian legislation does not mention subsidies or compensation for sustainable forest use, indicating insufficient motivation for businesses in these countries to adhere to environmental norms. European regulations also ensure strict oversight of legal compliance. For example, the EUTR (2010) holds forestry companies accountable for the origin of timber. Article 5 of this Regulation specifies that "all timber importers must have certification of the legality and sustainability of the origin". This reduces the risks of illegal logging. Ukrainian legislation stipulates administrative and criminal liability for illegal logging; however, in practice, enforcement effectiveness remains low. For instance, the Forest Code of Ukraine (1994) provides for sanctions in Article 37, but due to the low effectiveness of law enforcement, there remains room for corruption and illegal logging. Brazil has mechanisms to control illegal logging, but their effectiveness depends on regional law enforcement (Law of Brazil No. 12.651, 2012).

The analysis revealed that the EU's legal framework is more structured compared to those in Latin America and Ukraine. The EU has implemented clearer standards that promote

sustainable development, whereas Ukraine and Latin American countries have gaps in monitoring and incentivising compliance with environmental regulations. This highlights the need for more detailed legal norms, particularly in terms of oversight, incentives, and terminology, which could facilitate better law enforcement and forest conservation.

The third phase of the research was dedicated to analysing the potential for implementing the FLEGT system in Latin American countries, where the problem of illegal logging remains pressing, as well as in Ukraine, where the regulation of the forestry sector requires further improvement. FLEGT (2001) is one of the key initiatives of the European Union aimed at combating illegal logging, managing forest resources, and preventing illegal timber trade. Studying the possibilities of introducing this system in different regions of the world helps assess the readiness of national legislations and regulatory bodies to support international standards in forest management and sustainable development. Ukraine, as part of the European market and an active participant in international environmental initiatives, has some experience cooperating with the EU on environmental protection issues. However, the timber industry still faces problems with illegal logging, non-transparent forest management schemes, and insufficiently effective implementation of environmental standards.

Implementing the FLEGT system in both Ukraine and Latin America requires a comprehensive approach that involves strengthening the legal framework, increasing transparency, promoting sustainable development, and fostering active international cooperation. Although both regions face different challenges, the common goal is to combat illegal logging and improve forest management. The implementation of

FLEGT (2001) can be a significant step towards sustainable development and the preservation of forest ecosystems.

Discussion

The escalating challenges faced by global forest management in the context of climate change, economic transformations, and social inequalities have become increasingly pressing. In light of contemporary environmental threats such as biodiversity loss, ecosystem degradation, and the adverse impacts of climate change, the need for effective forest management strategies is more evident than ever. This is particularly significant within the European Union (EU), which aims to integrate forest policy into a broader environmental and economic strategy. Notably, K. Gregor *et al.* (2024) in their article analyse the synergy between forest, biodiversity, and climate policies in the EU, highlighting the importance of integrating various strategies to achieve sustainable forest management. This aligns with the findings of this research, which revealed that Ukraine needs to focus on integrating its forest strategies into a broader environmental policy context to enhance the effectiveness of forest resource management. The study by L. SolísMendoza *et al.* (2024) on the implementation of the FLEGT agreement in Ghana highlights the significance of political will and government oversight for successful reform implementation. Similarly, conducted research has shown that Ukraine suffers from a lack of adequate government oversight, hindering the implementation of international standards. High levels of corruption further impede the implementation of these reforms, as supported by the findings of S.R. Lewis and J. Bulkan (2022) who describe political dynamics in the context of multilateral negotiations in Thailand, where similar problems are observed. The study by M. Marzano &

J. Urquhart (2020) discusses the impact of social systems on tree health in the context of climate and trade challenges. This issue is also highly relevant to Ukraine, where insufficient cooperation between government agencies and civil society organisations hinders the achievement of forestry goals. The research results confirm that for the successful implementation of the FLEGT system, Ukraine needs to intensify cooperation with international organisations and leverage their experience in combating illegal logging and increasing the transparency of forest resource management.

The findings of R.S. Mbatu's (2020) research emphasise that the implementation of FLEGT and REDD+ in Cameroon faces a range of challenges, including insufficient political will and resources for monitoring. These conclusions align with the results in Ukraine, where there is also a lack of resources and technical capacity for effective forest resource management oversight. This creates risks for the successful implementation of FLEGT, as without the necessary resources, ensuring compliance with international standards is difficult. The study by C. McDermott *et al.* (2019) highlights the importance of integrating global governance with local access to resources in the context of FLEGT agreements in Ghana and Indonesia. This research also stresses the significance of local initiatives and community involvement in forest management processes in Ukraine, which could substantially enhance the effectiveness of FLEGT implementation. Issues related to the implementation of FLEGT in Indonesia are discussed by M. Mutawalli *et al.* (2023), who notes that improvements in legislation and monitoring were key factors in ensuring the effective operation of the FLEGT licensing scheme. In Ukraine, however, despite efforts to introduce electronic timber tracking systems, there remains low transparency in management. This underscores the need for

reforms not only in legislation but also in the overall forest resource management system. Based on Y.N. Prasada's *et al.* (2022) study on the impact of FLEGT licensing on the competitiveness of the Indonesian plywood industry in the EU, it is evident that the FLEGT system can positively influence timber product exports if implemented correctly. Similarly, in Ukraine, the proper implementation of FLEGT standards could significantly enhance competitiveness in international markets, underscoring the importance of aligning national policy with international requirements.

Studies by P. Thuy *et al.* (2021) and S. Ramilovic-Suominen (2024) highlight the critical role of civil society participation in implementing FLEGT in Laos, underscoring the need for multi-stakeholder involvement in decision-making processes. This further reinforces the necessity of active community participation in Ukraine to improve forest management. Discussions on access and benefit-sharing in Namibia by N. Nakanyete *et al.* (2024) demonstrate that international environmental standards can benefit local communities if equitable benefit-sharing mechanisms are established. This is a crucial issue for Ukraine as well, where forest conservation and sustainable development can go hand in hand. Implementing FLEGT is a complex process requiring a comprehensive approach, including legislative reforms, enhanced community engagement, and collaboration with international organisations. This is particularly relevant for Ukraine where the existing legal framework and control mechanisms need improvement to ensure the effective implementation of the FLEGT system and achieve sustainable forest management.

Implementing the FLEGT system is a significant step towards ensuring the legality of timber products, which in turn contributes to the conservation of forest ecosystems and the fight against

illegal logging. However, the implementation of such initiatives often faces significant challenges, including corruption, inadequate technical infrastructure, and a lack of experience among local authorities. In Ukraine, for example, despite progress in introducing electronic forest resource accounting systems, the issue of transparency remains critically important. This highlights the need for improved control and monitoring mechanisms to prevent illegal activities and enhance the effectiveness of implementing international standards. Lack of transparency in forest management negatively impacts the trust of the public and international partners, which can hinder the attraction of investments and international assistance. Therefore, creating conditions for greater openness and accountability in forest management is a key factor in achieving sustainable development goals.

Collaboration between government agencies, non-governmental organisations, and international institutions is crucial. This interaction can facilitate the exchange of experiences, knowledge, and resources, which is essential for implementing effective forest management strategies. At the international level, initiatives such as REDD+ have already proven successful in reducing carbon emissions and conserving biodiversity, opening up new opportunities for countries seeking to implement similar programs. It is important not only to introduce new policies but also to ensure their implementation at all levels of governance. Only through a holistic approach can the set goals be achieved, improving the state of forest resources and ensuring their sustainable development, which, in turn, will have a positive impact on the socio-economic development of regions and the country as a whole. Creating effective forest management mechanisms based on international standards will guarantee environmental security

and sustainable development in Ukraine and other countries implementing similar initiatives.

Conclusions

A study conducted on the implementation of the FLEGT system and EU regulations in Ukraine's forest resource management has revealed that while existing national legislation partially meets the system's requirements, there are significant gaps in the mechanisms for monitoring its implementation at the local level. Insufficient oversight by government agencies, coupled with high levels of corruption, hinders the realisation of international initiatives, as the introduced electronic timber accounting systems do not fully address the issue of management transparency. It is necessary to enhance cooperation with international organisations and implement independent monitoring systems, as well as develop training programs for forestry professionals to improve forest resource management under international standards.

An analysis of Ukraine's national legislation regarding the implementation of the FLEGT system has revealed that while its core provisions partially align with European standards, significant improvements are needed. Insufficient control over the enforcement of forest legislation at the local level and corruption risks remain major barriers, significantly reducing the effectiveness of existing electronic timber accounting systems. Despite progress in implementing international initiatives, a lack of cooperation with international organisations hinders adaptation to FLEGT standards. The research also indicates the need to adopt practices successfully implemented in Latin America, particularly Peru, where agreements have been signed with the EU and national forest conservation programs have been developed. However, challenges such as corruption and resource constraints persist in

Peru, highlighting the need for a comprehensive approach to FLEGT implementation. The forest legislation of Latin America, Ukraine, and the EU shares similar goals but differs significantly in approaches and the level of protection afforded to forest resources.

In Latin America, which has the largest area of tropical forests, legislation focuses on biodiversity protection and the conservation of natural resources. However, in some countries, there are significant gaps in its implementation due to corruption and illegal logging. EU legislation is aimed at sustainable development and is stricter, regulating not only forest conservation but also its impact on climate and ecology under the European Green Deal. In Ukraine, forestry legislation is only gradually aligning with EU standards, focusing on reducing illegal logging and promoting sustainable development, although it faces several challenges, such as limited funding and insufficient control. The analysis of the situation in Latin America, particularly in Peru, showed that although the country has made some progress in implementing FLEGT, it faces similar problems, such as corruption and a lack of resources for effective monitoring. This highlights the importance of a comprehensive approach to implementing the system.

The prospects for further research lie in examining the impact of international environmental standards on the economic resilience of the timber industry, as well as the mechanisms of financial support for implementing FLEGT in developing countries.

Acknowledgements

None.

Conflict of Interest

None.

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Проблеми та перспективи впровадження системи FLEGT та регламенту ЄС щодо лісової продукції в українське законодавство та практику

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Анотація

Метою дослідження було вивчення можливих шляхів вдосконалення національного законодавства в контексті поширення системи FLEGT щодо лісової продукції. Методологія дослідження включала порівняльний аналіз міжнародного та національного законодавства, аналіз статистичних даних щодо лісової продукції. Результати дослідження показали, що впровадження системи FLEGT потребує значної модернізації законодавства та адміністративних механізмів. Порівняння нормативної бази ЄС з національними практиками виявило розбіжності у стандартах контролю та перевірки лісової продукції. Впровадження системи FLEGT потребує вдосконалення механізмів контролю та прозорості, передбачених законодавством України щодо лісової продукції – Лісовим кодексом, який визначає порядок використання, охорони та відтворення лісів. Особливу увагу у статті приділено питанням екологічної стійкості та контролю за нелегальними вирубками. Порівняння України з іншими країнами дозволило виявити ряд спільних проблем, пов'язаних з браком належного контролю та корупцією. Для обох регіонів важливо посилити контроль за дотриманням екологічних норм і впровадити ефективнішу систему сертифікації лісової продукції, чому перешкоджають брак фінансування для адаптації до нових стандартів та необхідність навчання кадрів, відповідальних за контроль над дотриманням вимог FLEGT. Проведене дослідження підтвердило необхідність підвищення прозорості ринку деревини та низький рівень готовності національного законодавства до впровадження нових вимог. Крім того, дослідження показало, що успішне впровадження системи FLEGT може позитивно вплинути на екологічну стійкість лісового господарства та поліпшити міжнародну репутацію держави як надійного постачальника лісової продукції. Отримані результати дослідження можуть бути використані для вдосконалення нормативної бази в галузі лісового господарства

Ключові слова: легалізація ринку; регуляторні механізми; екологічний моніторинг; юридичне регулювання; деревина; еколого-правовий аналіз



UDC 614.253.83

DOI: 10.31548/law/3.2024.121

Current challenges of ensuring patients' rights in Europe and the USA

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Article's History:

Received: 29.04.2024

Revised: 22.07.2024

Accepted: 15.08.2024

Abstract

The purpose of the study was to conduct a comprehensive analysis of current issues related to the protection of patients' rights in healthcare systems in Europe and the United States. For this purpose, a comparative analysis of the legal acts in the United States of America and Europe ensuring patients' rights was carried out, using terminological, formal legal, structural and functional methods, and problem analysis. The results obtained show that the legal provisions on patients' rights in Europe and the USA include the rights to access to quality medical care, confidentiality of medical information, participation in the decision-making process regarding treatment, and the right to access medical services without discrimination on any grounds. A review of the obstacles faced by European and American patients in protecting their rights in the 21st century has shown that measures should be taken to raise standards and make healthcare more accessible to all. It is particularly important to create a more effective system of monitoring the observance of patients' rights and the application of modern healthcare standards. In the future, it will be relevant to monitor the development of digital medical technologies and improve the health literacy of the population. The recommendations include the creation of patient

Suggested Citation:

Khazhanets, V. (2024). Current challenges of ensuring patients' rights in Europe and the USA. *Law. Human. Environment*, 15(3), 121-136. doi: 10.31548/law/3.2024.121.



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rights training plans, professional development of healthcare professionals and ensuring more open and transparent healthcare governance, strengthening of legislative regulation, improving access to healthcare, protection of personal data, development of telemedicine, raising awareness of patients' rights, reforming the insurance system, and monitoring and evaluation of the quality of healthcare. These recommendations will contribute to improving the healthcare system, ensuring the protection of patients' rights and reducing inequalities in access to healthcare in the US and Europe

Keywords: healthcare; access to medical services; medicine; international standards; medical care; legislative framework

Introduction

Studying the current challenges of ensuring patients' rights is extremely relevant in the context of rapid changes in the healthcare sector. This study contributes to improving the quality of medical services, enhancing the protection of patients' rights, and promoting a fairer and more ethical healthcare system. Innovations in healthcare, such as telemedicine, the use of artificial intelligence and digital medical records, pose new challenges to patients' rights. On the one hand, these technologies improve the accessibility and quality of healthcare services, but on the other hand, they raise questions about data security and privacy. Regular changes in national and international legislation require constant monitoring and adaptation to ensure compliance with modern patient protection requirements. Growing attention to ethical aspects in medical practice emphasizes the importance of ensuring patients' rights, such as the right to informed consent, the right to refuse treatment and the right to access complete information about their health status. Ensuring patients' rights requires creating conditions for equal access to healthcare services regardless of social status, income, or place of residence. The growing role of patients' organizations and civic initiatives points out the need to actively involve patients in healthcare decision-making and ensure their rights.

Having studied the issue of patients' rights, T.O. Zheglinska (2023) and M. Tsurkan (2019) concluded that patients' rights are a set of social, economic and legal relations that arise in the field of healthcare. They encompass the right to quality and safe medical care, the right to free choice of a doctor and a medical institution, and the right to confidentiality of medical information. As M. Tsurkan (2019) notes, the theoretical aspects of patients' rights are based on the universal values of dignity, freedom, and the right to protect one's own personality. They are also reflected in acts of international law and national legislation regulating medical activities. Understanding the theoretical aspects of patients' rights helps to improve the healthcare system and ensure respect for the rights and interests of each patient. The law enables every patient to realize their fundamental rights, such as the right to respect for human dignity, evidence-based services and the right to advocacy.

D.V. Yatskiv and S.S. Yesimov (2022), and V.V. Yakovleva (2020) studied the main problems that arise in the field of ensuring patients' rights. According to the conclusions of D.V. Yatskiv and S.S. Yesimov (2022), one of the main problems of ensuring patients' rights in the field of specialized care is a simple lack of knowledge of what patients'

rights are and how they should be exercised. However, as noted by V.V. Yakovleva (2020), there may be another explanation, which lies in the areas of procedural law. This inaccessibility may be partly due to the fact that people are often not involved in the life of society as a whole or through the state system, and partly due to the specific function of the state, which is characterized by a wide range of special rules. As emphasized by O. Getmatets *et al.* (2018), the problem of financial insurance as a violation of patients' rights is also a relevant topic, especially in the context of access to healthcare. It can become a barrier to ensuring equal access to healthcare, which violates patients' rights to quality and timely treatment.

The right of an individual patient to receive medical care and the patients' right to freedom of choice of treatment options, according to the results of the study by O. Lisnych (2020), play a significant role in healthcare practice. In most modern democracies, the right to life and the right to personal physical integrity are inalienable, but their meaning may change. According to D.O. Bilyi (2021), patient protection mechanisms include established norms and procedures aimed at ensuring the safety, dignity, and satisfaction of patients' needs. They include various legislative acts, court decisions, medical standards and ethical rules. Public authorities and non-governmental organizations play a pivotal role in ensuring that patients' rights are respected and in addressing complaints about violations. In addition, there are mechanisms for alternative dispute resolution between patients and healthcare facilities, such as mediation and consultations with a lawyer, which help to resolve conflict situations without litigation.

After conducting research on this topic, Z. Nampewo *et al.* (2022) noted that patient protection is aimed at guaranteeing access to quality healthcare, maintaining the confidentiality

of medical information, and ensuring the right to informed consent. In the healthcare system, this issue is important both in terms of legal support and an ethical approach to patient care. M.A. Hall *et al.* (2024) argue that ensuring patients' rights requires a comprehensive approach that includes both improving the legislative framework and enhancing the culture of interaction between patients and healthcare professionals.

Despite the growing interest in this topic, there are aspects that remain unexplored or require further study, in particular, it is worth paying attention to the question of how effective the existing mechanisms for protecting patients' rights in different European countries and the United States are and how these mechanisms can be improved. Thus, the purpose of the study was to analyse and assess the current challenges faced by healthcare systems in Europe and the United States in the context of ensuring patients' rights. The following tasks were set: studying the existing legislation regulating patients' rights in Europe and the United States; comparing various legislative acts related to patients' rights; studying how patients' rights are implemented in practice in different countries of Europe and the United States; assessing the effectiveness of mechanisms for protecting patients' rights.

Materials and Methods

Using the terminological method, the author examines the key concepts of "patients' rights" and "protection of patients' rights". The main approaches to the interpretation of the concept of patients' rights are studied by means of comparative analysis. The essence of the legal protection of patients' rights is determined. The formal legal method helped to study the norms of international and national legislation of Europe and the USA on patients' rights, as well as the main differences in legal pro-

tection of patients between different countries. The article identifies the foundations of health-care legislation created in Europe and the United States. The main components of national health-care systems in the USA and European countries are analysed using the structural and functional method. The importance of ombudsman offices in European countries in ensuring and protecting the rights and obligations of patients is highlighted. The role of public and patient organizations in supporting and promoting patients' rights is determined. The role of the World Health Organization (WHO) and the Council of Europe in ensuring patients' rights in Europe and the United States is investigated. Ethical issues related to patients' rights are analysed. The legal institutions and the procedure for regulating the legal protection of patients' rights are studied. Differences in approaches to ensuring patients' rights between European countries and the United States are identified.

As part of the study of this topic, the authors examined the legal acts in the United States and some European countries that ensure patients' rights. In particular, the Health Insurance Portability and Accountability Act (1996), the Affordable Care Act (2010), Certification and Compliance for the Emergency Medical Treatment and Labour Act (1986), Patient's Bill of Rights (1997), Mental Health Parity and Addiction Equity Act (2014). The main rights of patients in the United States are highlighted. Separate analyses are made of the legal acts regulating patients' rights in Germany, the United Kingdom, Sweden, Italy, and the Netherlands, namely: the Patient Rights Act (2013), National Health Service Act (2006), Patient Act (2014), Law of Italy No. 219 "Rules on Informed Consent and Advance Treatment Arrangements" (2017), Dutch Law of Medical Treatment Agreements (1995). Given this analysis, the basic rights of patients in Europe were systematized.

The generalized legal acts on human and civil rights were also analysed separately, namely: the Universal Declaration on the Human Genome and Human Rights (1997) and the European Charter of Patients' Rights (2002). As a result, recommendations were formulated to improve patient rights based on the results of the study, and areas for improvement of policy, legislation, and practice in this area were identified.

Results

Ensuring patients' rights is a key aspect of health systems that aims to protect the interests, safety, and dignity of people receiving health care. Historically, patients' rights have been absent or limited (Barcik, 2022). The issue of patients' rights first became relevant in the 20th century (Tanha and Hayat, 2022). In 1948, the UN General Assembly approved the Universal Declaration of Human Rights (1948), in which some articles dealt with patients' medical rights. Later, in 1997, the Universal Declaration on the Human Genome and Human Rights (1997) was adopted in Warsaw, which emphasized the principles of solidarity and justice in health care.

The concept of legal protection of patients' rights is a new category in the theory of law and is an interdisciplinary, complex and mainly normative concept. Legal protection of citizens' rights is the main category of law that reflects the overall goal of the legal organization. Legal protection is based on other legal institutions and regulates the exercise of citizens' rights within the established procedure (Nagin & Telep, 2020; Van Beers, 2020). Fundamental rights are inextricably linked to fundamental human values and, when exercised, contribute to the realization of the individual's interests (Shue, 2020). The foundations of healthcare legislation established in Europe and the United States include provisions

in special laws, health insurance laws, social security laws, codes of ethics for certain professions, guidelines for professional associations, and sometimes customs (Park *et al.*, 2023). The doctrines of renowned scholars are also important. Since the main components of national healthcare systems in different countries largely correspond to the general matrix of social health law and the related structure of healthcare law, the community of European states is implementing a single healthcare system. This policy is being developed within the legal and institutional framework established by the Consolidated Version of the Treaty on European Union (2012), and mainly within the framework of the regulatory objectives recognized as the basis of the Treaty, such as harmonization of requirements for health systems and ensuring a high level of protection of human health. The norms set out in the above-mentioned Community regulations are binding on the main health services of the Member States. These norms shall be implemented in their national legal systems by each Member State in the form most appropriate for it, using its own governmental and administrative mechanism.

Economic inequalities in the US and Europe and the discriminatory distribution of citizens on a national scale, including access to health care, require the study of the impact of health services on the health of citizens (Emanuel *et al.*, 2021). As of 2024, inequality is seen as a difference between personal characteristics caused by geography-based reasons. There is certainly no more specific legal means of implementing the historical and universally recognized principles of medical ethics than legislation and codes aimed at protecting patients' rights. The European Charter of Patients' Rights (2002) reflects the right of everyone to receive medical care in accordance with positive laws and generally accepted medical

principles. It has identified priority tasks for raising national standards of public health protection, preventing diseases and creating conditions that would ensure equal access to necessary medical services. It is the basis for both existing and newly developed social and medical legislation.

Confidentiality and equivalent information security are among the fundamental rights protected by American and international social law instruments, thanks to the special principles of international conventions on human rights and biomedical research. Convention for the Protection of Human Rights and Dignity of the Human Being concerning the Application of Biology and Medicine: The Convention on Human Rights and Biomedicine (1997) ensures the confidentiality of a person who provides a physical sample of himself or herself. The collection, processing, and storage of confidential information is aimed exclusively at specific, clearly defined and technically feasible tasks within the framework of specific lease agreements or specific purposes that do not contradict the principles of national security.

A wide variety of laws and regulations at both the state and federal levels ensure that Americans have access to and are free to exercise individual choice in choosing medicines and healthcare options in accordance with their own values, beliefs, and priorities. Patient rights cover a wide range of issues, from the right to give (or receive) informed consent, the right to receive emergency care, the power to receive and distribute petitions, maintain health insurance, or appoint proxies to carry out advance care directives on behalf of the patient. As the culmination of more than two centuries of almost continuous expansion of patient protections, the body of law that has evolved over time is considerable.

Federal laws and regulations, including judicial constructions of them, provide important

safeguards and remedies for constitutionally privileged associations, including the patient-provider relationship. Modern legal principles of patient rights are deeply rooted in centuries-old traditions and thus withstand changing political winds. These principles are grounded in the interests, religious obligations, voluntary agreements, and patient decision-making capacity and practices that originated during the nation's founding. Ultimately, the US courts serve as the last line of defence for patient rights and access that are not fully addressed by state or federal laws.

Patients' rights in the US are regulated by various federal and state laws (Table 1), which guarantee access to healthcare, confidentiality of medical information, and protection from discrimination and mistreatment. It is possible to single out such basic rights of patients in the USA as the right to access to medical care (patients have the right to receive adequate medical care regardless of their social status, race, religion, or the presence of health insurance), the right to informed consent (patients have the right to receive full and clear information about their health condition, possible treatment methods, risks, and benefits before agreeing to any medical intervention; medical professionals are obliged to provide information in a form accessible to the patient), the right to confidentiality

(medical institutions must use measures to protect patients' personal information from unauthorized access), the right to access medical records (patients have the right to view, copy and correct their medical records, medical institutions are obliged to provide access to medical records within the time limits established by law, the right to participate in making decisions about treatment (patients have the right to participate in decision-making about their treatment, including the right to refuse treatment or choose alternative methods of treatment, patients also have the right to a second medical opinion, the right to equal access to medical care (Rafati *et al.*, 2024). The Affordable Care Act (2010) prohibits discrimination based on pre-existing conditions or other factors, it expands access to health insurance and health services for all citizens), the right to respect and dignity (patients have the right to be treated with respect by medical personnel, including the right to privacy during treatment, medical professionals are obliged to provide medical care taking into account the individual needs and wishes of patients, the right to safe treatment (medical institutions must adhere to high safety standards to prevent medical errors and infections, patients have the right to be informed about any risks associated with medical intervention).

Table 1. Key laws and regulations that protect patients' rights in the United States

Legal act	Objective	Requirements
The Health Insurance Portability and Accountability Act of 1996 (1996)	Protecting the confidentiality and security of patients' medical information	Healthcare facilities must ensure the confidentiality of medical records and restrict access to them to authorized persons only. Violations of the Health Insurance Portability and Accountability Act may result in significant fines and penalties
Affordable Care Act (2010)	Expanding access to health insurance, reducing the cost of medical services and improving the quality of medical care	Prohibiting the denial of insurance due to pre-existing conditions, expanding Medicaid and establishing healthcare exchanges for the purchase of insurance

Table 1. Continued

Legal act	Objective	Requirements
Certification and Compliance for the Emergency Medical Treatment and Labour Act (1986)	Guaranteeing the right of patients to emergency medical care regardless of their ability to pay for medical services	All medical institutions receiving federal funds are required to provide emergency medical care to all patients
Patient's Bill of Rights (1997)	Ensuring fundamental rights of patients in healthcare facilities, such as the right to informed consent, the right to participate in decision-making regarding their treatment, the right to confidentiality	Medical institutions should ensure the rights of patients and inform them of these rights
Mental Health Parity and Addiction Equity Act (2014)	Ensure equal coverage of mental health and drug treatment compared to medical and surgical treatment	Insurance plans should provide the same coverage for mental health as for physical health

Source: compiled by the author

It is necessary to constantly monitor legislative updates and implement new standards to improve patient protection. Active involvement of patients and civil society organizations in protecting their rights helps to improve the quality of care and ensure compliance with the

law (Stone *et al.*, 2020). In Europe, regulations are focused, in particular, on regulating specific issues in the area of patient rights (Table 2). In most cases, the legal acts of individual countries are similar to or based on existing European regulations (Meszaros *et al.*, 2022).

Table 2. Legislative protection of patients' rights in European countries

Country	Legal act	Objective
Germany	Patient Rights Act (2013)	Establishes the rights of patients to information, informed consent and compensation in the event of a medical error. Patients can file complaints with special healthcare ombudsmen
United Kingdom	National Health Service Act (2006)	Guarantees the right of patients to access healthcare services, protection of confidentiality and participation in decision-making regarding their treatment
Sweden	Patient Act (2014)	Includes provisions on the right to information, informed consent, data protection and the ability to file complaints about the quality of healthcare services
Italy	Law of Italy No. 219 "Rules on Informed Consent and Advance Treatment Arrangements" (2017)	Ensures the rights of patients to informed consent and the option to refuse treatment
Netherlands	Dutch Law of Medical Treatment Agreements (1995)	Regulates the relationship between patients and healthcare facilities, including the rights to information and confidentiality

Source: compiled by the author

The expansion of the list of rights of modern patients expands the scope of judicial protection of their interests. This contributes to the improvement of the legal framework of European countries in the field of implementation of such rights and other important unified principles and norms of interaction between society and healthcare systems. Many European countries have established ombudsman offices to address patient complaints and protect their rights (Reif, 2020). The results of the activities of ombudsmen in protecting patients' rights in European countries show a positive impact on the healthcare system. They help to improve the provision of healthcare services, correct shortcomings in the work of medical institutions and ensure that patient' rights are respected. The work of the ombudsmen also contributes to strengthening citizens' trust in the healthcare system and improving their attitudes towards healthcare personnel (Soumia & Al-Mahdawi, 2023). The impact of the ombudsmen is to identify systemic problems in healthcare, resolve conflicts between patients and healthcare institutions, and develop recommendations for improving the quality of healthcare services.

Active role of civil society and patient organizations in supporting and promoting patients' rights. International organizations such as the WHO and the Council of Europe play a pivotal role in ensuring patients' rights in Europe and the US (Sahlström *et al.*, 2019). The WHO actively promotes the development of international health standards, including the definition of patients' rights. The Council of Europe also carries out critical work in this area, ensuring the development and implementation of European standards in the field of patient protection. These organizations facilitate the exchange of best practices between countries, as well as provide advice and

recommendations on how to improve legislation and practice in the field of patient protection.

Researchers distinguish the following rights of patients:

- the right to access to medical services (patients have the right to timely access to quality medical care without discrimination on any grounds);
- the right to informed consent (medical institutions are obliged to provide patients with all the necessary information about the state of their health, treatments, risks, and alternatives so that patients can make informed decisions);
- the right to privacy (patients' medical data must remain confidential, and their processing must comply with data protection standards);
- the right to participate in decision-making (patients have the right participate in decision-making regarding their treatment and medical procedures concerning them);
- the right to respect (patients have the right to respect for their dignity and privacy during the provision of medical care);
- the right to information (patients have the right to receive clear and detailed information about their state of health, available services and procedures);
- the right to complaint and compensation (patients have the right to file complaints about the quality of medical services and receive appropriate compensation in case of violation of their rights).

The patient also has the right to free choice of a doctor and healthcare facility, as well as the right to the desired treatment and to refuse any medical intervention. In addition, patients have the right to participate in decision-making about their treatment and to have their interests protected in the event of treatment failures or complications (Varkey, 2021).

One of the most common problems in ensuring patients' rights in Europe is unequal access to healthcare (in some countries, there are difficulties with equal access to healthcare, especially for migrants and vulnerable groups); data protection (with the development of digital technologies, new challenges arise in protecting patients' medical data); patient awareness (many patients are not sufficiently aware of their rights and mechanisms for their protection) (Palm *et al.*, 2021). Limited access to healthcare services is a major problem, especially for vulnerable groups. This includes people with low incomes, migrants, people with disabilities and the elderly. Barriers can be financial, geographical, or related to insufficient numbers of healthcare professionals. Inequalities in access to services pose serious threats to the realization of the right to health. Ensuring patients' rights also faces the problem of insufficient information about diagnoses, treatment and possible risks. This makes it difficult for patients to make informed decisions about their health. Patients often do not have enough information about their rights, the possibility of obtaining a second opinion or available treatment options, which can affect the quality of healthcare services.

In modern medical practice, more and more attention is paid to an individual approach to patients. However, the reality often falls short of the ideal, especially in an environment where healthcare professionals are overworked, and resources are limited. Standardized treatment approaches that do not take into account patients' personal circumstances can lead to ineffective treatment and patient dissatisfaction. Many European countries have not yet established or underdeveloped mechanisms to protect patients' rights, such as effective complaints systems, healthcare ombudsmen or specialized legal advice. This makes it difficult for patients to protect their interests in the

event of a violation of their rights and limits their ability to defend their interests in court.

The problems related to patients' rights in Europe require a comprehensive approach to their solution. Reforms are needed that focus on ensuring access to healthcare services, improving patient information, protecting data privacy, introducing an individualized approach and creating effective mechanisms for protecting rights. The demand of European citizens for public, accessible and effective healthcare is growing. Increasing citizen participation in healthcare choices, including through increased access to information and a growing diversity of values and preferences, has heightened pre-existing concerns about patients' rights (Thomson *et al.*, 2019).

The use of modern information technologies, citizen participation in decision-making, and the need for collaboration between healthcare providers, as well as the movement of both patients and healthcare providers across borders, have contributed to increased transregional interaction. To meet these expectations of consensual patient protection, the WHO Regional Office for Europe issued the European Charter of Patients' Rights (2002). The charter outlines 14 general rights that WHO experts believe should be upheld in conflict-affected health systems in European countries.

As of now, patients nationally and internationally are gaining significant legal rights in relation to their own bodies and access to healthcare, the way they are treated and the compensation they can claim for health-related harm. In the same context, the support of these patients by consumer protection laws and the classification of healthcare services as economic services of general interest leads, on the one hand, to a more prominent role for patient will and informed consent compared to decisions made by

healthcare professionals, and, on the other hand, to the continuous growth of defensive medicine and the increase in healthcare budgets (Hall *et al.*, 2024). This guarantees the patient a number of rights regarding respect for the person, information and self-determination, access to healthcare services at three levels: not to be deprived of these services, to claim compensation for health damage, conduct, and behaviour as those of nurses, the performance of administrative and penal duties of healthcare professionals, the ability to obtain medical records from public and private healthcare institutions, and the international aspect of healthcare.

In order to avoid a possible conflict between the provision of patients' rights (*iuridictio subsidiaria*) and their legal personality, it is necessary that each European state adapts and interprets the provisions of the legislation ensuring patients' rights in accordance with its national legal system. Such provisions relate to the patient's right to access to healthcare services, to information and details (i.e., how doctors (in general) and physicians (in particular) inform the patient about risks, expected benefits and therapeutic alternatives), to consent to medical treatment (including refusal of life-sustaining treatment) and the possibility to obtain a second medical opinion, to free choice of healthcare provider (including the obligation of the doctor to comply with the patient's will) and healthcare facility, to secrecy and confidentiality of personal data, to receiving copies of their own medical records free of charge.

Discussion

Legal protection in the healthcare sector has been discussed for a long time and has become particularly relevant at the beginning of the 21st century to patients' rights and, in particular, human rights at the beginning and during treatment.

The legislation reflects several approaches to the definition of the term. As noted by A. Hanson and L.M. Haddad (2023), they are the result of specific aspects of legal protection that can be focused on or specific legal mechanisms that provide legal protection. However, a comprehensive definition of legal protection is still lacking. In contrast to legal regulation, which is a much broader concept, legal protection in healthcare is often considered within the framework of certain types of legal relationships, such as doctor-patient or hospital-patient. The definition of patient protection is then relatively straightforward.

As it has been established, the concept of "legal protection of patients" belongs to the category of complex definitions that have several approaches. At the same time, the legal protection of patients is inextricably linked to the focus on legal relations and their object. Therefore, it is advisable to use a comprehensive definition that includes the defined concept in several approaches and takes into account the legal relations that make up the content of the defined concept. It is worth paying attention to the study by G. Nittari *et al.* (2020). Under the legal protection of patients, the authors define a set of measures aimed at ensuring the implementation and preservation of the patient's rights and interests, as well as certain legal relations arising in the course of providing medical services to the patient and establishing specific rules and regulations, actions of the parties to the relations to ensure the preservation of the right to health and obligations arising from such legal relations.

As established, all patient rights are designed to ensure strong standards of professional examination and treatment. This is confirmed by the compilation of B. Kompa *et al.* (2021) summarized list of patient rights, which includes the right to be informed, the right to consent, the right to privacy,

the right to confidentiality, the right to ethics and the right to refuse, the right to be free from unnecessary pain and suffering, the right to stay in hospital, the right to obtain a second opinion, the right to obtain a copy for treatment and control of one's own personal medical data, the right to health protection in case of negative consequences after examination and treatment, the right to adopt a dignified death, the right to understanding and the right to support. It should be added that the patient has the right to participate fully in the decision-making process regarding their treatment. Patients have the right to be free from unnecessary pain, suffering and related stress.

It is also worth paying attention to the conclusions of R.J. Cook (2020). The author argues that in many countries, the quality of medical care is low because patients and their rights are not respected. We should agree with this opinion. According to the study, in countries in Africa and parts of South Asia, such as Nigeria, Mali, South Sudan, Bangladesh and Pakistan, the concept of patient rights is absent or weak, and there are no laws or regulations that define, protect or provide a framework for claiming them. If patients are to assert these rights and receive what they are entitled to, health policies must support them. It can be concluded that the need for patients to be citizens in a democratic society is one of the reasons why patients' rights are becoming an important policy issue.

It was found that civil society and patient support organizations are active in ensuring and promoting patients' rights. This is confirmed by the findings of A. Mishra *et al.* (2021). The authors note that civil society and patient organizations play a unique role in promoting patients' rights. Providing legal support, counselling, and disseminating new knowledge and legislation are the main tasks of public and patient organizations. In

the authors' opinion, these organizations deserve more support and respect from the state and the private sector because of the inordinate burden that public health and the national economy bear due to the efforts of these organizations.

The investigation also established the role of ombudsmen in ensuring and protecting patients' rights. A.A. Abwunza *et al.* (2021) also emphasize the positive impact of ombudsmen in the process of ensuring patients' rights. According to the study by A.A. Abwunza *et al.* (2021), the most basic role of such a person is to investigate individual patient complaints. In addition, the ombudsman may have broader powers to investigate recurring problems; monitor services to identify new problems before they become more severe; and then influence either the health service to make changes directly or the government to amend regulations. The role of ombudsmen in addressing patient complaints and protecting patients' rights is being considered in a number of European countries. It is worth paying attention to the conclusions of N. Dzhafer and I. Chavkova (2023) that ombudsmen are independent of the health service management, and their investigations are considered thorough and fair in determining the facts and what happened. They are also independent arbiters of procedural correctness, behaviour, and rights to a reasonable service. Their outcomes are reasonable, predictable, and fair, and the individual patient believes the service acts impartially. Finally, their processes are transparent, and their findings should be made public.

The realization of patients' rights in healthcare is challenging for several reasons. Some of these are practical problems related to the nature of the healthcare environment, and some are ethical in nature. These are some reasons why patients may not always find patient rights in practice, or even if these rights are respected, they

may not be able to exercise them to the fullest extent. Patients are usually in a vulnerable position. As they lack the necessary information and experience in the medical field, they are dependent on medical professionals and institutions. In a high-risk situation, this makes it even more difficult to realize patients' rights. On the other hand, incapacitated patients or children are not even able to fulfil the cognitive, volitional or communicative conditions to be rights holders. Especially due to the unsafe nature of healthcare services, when a patient is in this position, they are often unable to receive the necessary support. Given the limited availability and inadequacy of external oversight mechanisms, the existence of internal monitoring mechanisms in healthcare facilities is essential.

Conclusions

In modern European and US legislation, patients' rights are guaranteed by a number of laws and regulations that define their legal status. Among the fundamental rights of patients are the right to information about their health status and possible treatments, the right to confidentiality of medical information, and the right to refuse treatment. The legislation also defines the right to access quality medical care, the right to non-discriminatory treatment and the right to protection from non-consensual experimentation.

Patient rights legislation and regulations in Europe and the United States include the rights to access quality healthcare, confidentiality of medical information, participation in treatment decisions, and the right to seek healthcare services without discrimination on any grounds. In Europe, these rights are defined in the European Charter of Patients' Rights and national legislation, while in the US they are enshrined

in various federal and state laws. Legal norms also regulate the relationship between patients and healthcare professionals, including requirements for informing patients about their rights and responsibilities, as well as the procedure for resolving conflicts.

In the twenty-first century, there are several global challenges to patient rights related to health, confidentiality, and access to healthcare. These include insufficient availability of medicines and medical equipment, excessive cost of medical services, and inequalities in access to quality healthcare. Another major challenge is the lack of resources in healthcare systems, which leads to patient dissatisfaction and insufficient access to high-quality healthcare.

An analysis of current challenges in ensuring patients' rights in Europe and the United States points to the need to strengthen measures to improve the quality and accessibility of healthcare services for all. One of the main challenges in researching this topic is that access to statistical data related to patients' rights is often limited due to confidentiality issues or bureaucratic obstacles. This can lead to incomplete research and distorted results.

One of the essential areas for future research is to study how digital technologies, such as telemedicine and electronic medical records, affect patients' rights, including confidentiality, access to information and the quality of healthcare services.

Acknowledgments

None.

Conflict of Interest

None.

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Сучасні виклики забезпечення прав пацієнтів в Європі та США

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Анотація

Метою дослідження було проведення комплексного аналізу сучасних проблем, пов'язаних із захистом прав пацієнтів у системах охорони здоров'я в Європі та США. Для цього, було проведено порівняльний аналіз нормативно-правових актів у Сполучених Штатах Америки та Європі, що забезпечують права пацієнтів, використано термінологічний, формально-юридичний, структурно-функціональний методи, проблемний аналіз. Отримані результати показали, що правові норми щодо прав пацієнтів у Європі та США включають права на доступ до якісної медичної допомоги, конфіденційність медичної інформації, участь у процесі прийняття рішень щодо лікування, право на доступ до медичних послуг без дискримінації за будь-якою ознакою. Огляд перешкод, з якими стикаються європейські та американські пацієнти у захисті своїх прав у XXI столітті, показав, що слід вжити заходів для підвищення стандартів і зробити медичну допомогу доступнішою для всіх. Особливо важливим є створення більш ефективної системи контролю за дотриманням прав пацієнтів і застосуванням сучасних стандартів у галузі охорони здоров'я. У майбутньому буде важливо стежити за розвитком цифрових медичних технологій і підвищенням медичної грамотності населення. Серед рекомендацій – створення планів навчання правам пацієнтів, підвищення кваліфікації медичних працівників і гарантування більш відкритого та прозорого управління в галузі охорони здоров'я, посилення законодавчого регулювання, покращення доступу до медичної допомоги, захист персональних даних, розвиток телемедицини, підвищення обізнаності пацієнтів щодо їхніх прав, реформування системи страхування, моніторинг та оцінка якості медичної допомоги. Ці рекомендації сприятимуть покращенню системи охорони здоров'я, забезпеченню захисту прав пацієнтів та зниженню нерівності у доступі до медичної допомоги в США та Європі

Ключові слова: охорона здоров'я; доступ до медичних послуг; медицина; міжнародні стандарти; медична допомога; законодавча база

ПРАВО. ЛЮДИНА. ДОВКІЛЛЯ

Науково-практичний журнал

Том 15, № 3. 2024

Заснований у 2010 р. Виходить чотири рази на рік

Оригінал-макет видання виготовлено у відділі науково-технічної інформації
Національного університету біоресурсів і природокористування України

Відповідальний редактор:

Г. Івченко

Редагування англomовних текстів:

С. Воровський, К. Касьянов

Комп'ютерна верстка:

О. Глінченко

Підписано до друку 15 серпня 2024 р. Формат 70*100/16

Умов. друк. арк. 11,2

Наклад 50 прим.

Адреса видавництва:

Національний університет біоресурсів і природокористування України

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<https://environmentalscience.com.ua/uk>

LAW. HUMAN. ENVIRONMENT

Scientific and Practical Journal

Volume 15, No. 3. 2024

Founded in 2010. Published four times per year

The original layout of the publication is made in the Department of Scientific and Technical Information of National University of Life and Environmental Sciences of Ukraine

Managing Editor:

H. Ivchenko

Editing English-Language Texts:

S. Vorovsky, K. Kasianov

Desktop Publishing:

O. Glinchenko

Signed for print August 15, 2024. Format 70*100/16

Conventional printed pages 11.2

Circulation 50 copies

Editors Office Address:

National University of Life and Environmental Sciences of Ukraine

03041, 15 Heroiv Oborony Str., Kyiv, Ukraine

Tel.: +38(044)-258-42-63

E-mail: info@environmentalscience.com.ua

<https://environmentalscience.com.ua/en>