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ПОЛІТИЧНІ ПРОБЛЕМИ МІЖНАРОДНИХ ВІДНОСИН

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SASKATCHEWAN-UKRAINE RELATIONSHIPS IN EDUCATION: HISTORY, CURRENT STATE, AND PROSPECTS

САСКАТЧЕВАНО-УКРАЇНСЬКІ ВІДНОСИНИ В ОСВІТІ: ІСТОРІЯ, СУЧАСНИЙ СТАН ТА ПЕРСПЕКТИВИ

САСКАТЧЕВАНО-УКРАИНСКИЕ ОТНОШЕНИЯ В ОБРАЗОВАНИИ: ИСТОРИЯ, СОВРЕМЕННОЕ СОСТОЯНИЕ И ПЕРСПЕКТИВЫ

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Abstract. *For the last decade, the internationalization of higher education became a priority for both the Canadian province of Saskatchewan and Ukraine. Having historically strong ties, these two parties attempt to build equally strong educational relations. By analyzing educational partnerships and collaborations between the post-secondary institutions in Saskatchewan and Ukraine, the paper examines the history, nature, and development of the Saskatchewan-Ukraine relationships in higher education. The author analyses the case of the Saskatchewan-Ukraine cooperation in higher education by examining documents related to the Saskatchewan-Ukraine relations, those outlining Canadian federal and provincial policy initiatives, and Ukrainian state legislature. The paper also discusses the Saskatchewan-Ukraine educational cooperation as it is promoted on the websites of the universities involved in such cooperation. The author investigates different internship programs and initiatives between two Saskatchewan universities – the University of Regina and the University of Saskatchewan, and three Ukrainian public universities – Yuriy Fedkovych Chernivtsi National University, Ivano-Frankivsk National Technical University of Oil and Gas, and Ternopil Volodymyr Hnatiuk National Pedagogical University. The document analysis provides information of three major categories: the history of the Saskatchewan-Ukraine relations, the current state of such relationships in education, and the prospects of the Saskatchewan-Ukraine educational cooperation. Regardless of the strong governmental support of the Saskatchewan-Ukraine relationships in education, several challenges to the relationships appear in the light of the current political-economic contexts. The paper discusses these challenges and suggests recommendations for developing further Saskatchewan-Ukraine cooperation in the educational field.*

Key words: *higher education, internationalization, international collaboration, Saskatchewan-Ukraine partnership, document analysis.*

Анотація. За останнє десятиліття інтернаціоналізація вищої освіти стала пріоритетом як для канадської провінції Саскачеван, так і для України. Маючи міцні історичні зв'язки, ці дві сторони намагаються побудувати однаково міцні відносини у галузі освіти. Аналізуючи освітні партнерських відносин та співпрацю між вищими навчальними закладами Саскачевану та України, стаття досліджує історію, природу та розвиток саскачевано-українських відносин у вищій освіті. Автор аналізує саскачевано-українську співпрацю у галузі вищої освіти шляхом вивчення документів, безпосередньо пов'язаних із саскачевано-українськими відносинами, та тих, що окреслюють канадські федеральні та провінційні політичні ініціативи та законодавчі документи України. У статті також розглядається інформація з веб-сайтів університетів, які задіяні у співпрацю між Саскачеваном та Україною. Таким чином, автор досліджує різні ініціативи та програми стажування між двома університетами Саскачевану – університетом Реджайни та університетом Саскачевану та трьома державними університетами України – Чернівецьким національним університетом імені Юрія Федьковича, Івано-Франківським національним технічним університетом нафти і газу та Тернопільським національним педагогічним університетом імені Володимира Гнатюка. Аналіз документів дає можливість виділити три основні категорії щодо природи та динаміки саскачевано-українських відносин: історія відносин між Саскачеваном та Україною, сучасний стан цих відносин та перспективи співпраці між Саскачеваном та Україною у освітній галузі. Незважаючи на потужну державну підтримку відносин між Саскачеваном та Україною в освіті, низка викликів постає у світлі поточного політико-економічного контексту. Автор розглядає ці виклики та пропонує рекомендації щодо розвитку подальшого освітнього співробітництва між Саскачеваном та Україною.

Ключові слова: вища освіта, інтернаціоналізація, міжнародна співпраця, партнерство Саскачеван-Україна, аналіз документів.

Аннотация. За последнее десятилетие интернационализация высшего образования стала приоритетом как для канадской провинции Саскачеван, так и для Украины. Имея исторически прочные связи, эти две стороны пытаются построить одинаково прочные отношения в области образования. Анализируя образовательные партнерские отношений и сотрудничество между высшими учебными заведениями Саскачевана и Украины, статья исследует историю, природу и развитие саскачеван-украинских отношений в высшем образовании. Автор анализирует саскачеван-украинское сотрудничество в области высшего образования путем изучения документов, непосредственно связанных с саскачеван-украинскими отношениями, и тех, которые определяют канадские федеральные и провинциальные политические инициативы и законодательные документы Украины. В статье также рассматривается информация с веб-сайтов университетов, которые задействованы в сотрудничестве между Саскачеваном и Украиной. Таким образом, автор исследует различные инициативы и программы стажировки между двумя университетами Саскачевана – университетом Реджайны и университетом Саскачевана и тремя государственными университетами Украины – Черновицким национальным университетом имени Юрия Федьковича, Ивано-Франковским национальным техническим университетом нефти и газа и Тернопольским национальным педагогическим университетом имени Владимира Гнатюка. Анализ документов дает возможность выделить три основные категории относительно природы и динамики саскачеван-украинских отношений: история отношений между Саскачеваном и Украины, современное состояние этих отношений в высшем образовании и перспективы сотрудничества между Саскачеваном и Украины в сфере образования. Несмотря на мощную государственную поддержку отношений между Саскачеваном и Украиной в образовании, ряд вызовов возникает в связи с текущим политико-экономическим контекстом. Автор рассматривает эти вызовы и предлагает рекомендации по развитию дальнейшего сотрудничества между Саскачеваном и Украины в сфере образования.

Ключевые слова: высшее образование, интернационализация, международное сотрудничество, партнерство Саскачеван-Украина, анализ документов.

Introduction. For the last several decades, globalization and internationalization have defined socio-economic and education policies in many countries. The internationalization of higher education has a broad focus comprising academic mobility, international research collaboration, networking, and internationalization at home, to name a few. Regardless of a country or a part of the world, the internationalization of higher education is always connected with economic growth, benefits for trade, foreign policy relationships, and building a modern society. Because of the increasing importance of internationalization, the higher education sector in Canada and Ukraine has been undergoing radical changes reflected in national strategies, government policies, and higher education practices.

Canada has sufficient experience in all aspects of internationalization with a shared commitment from government, academia, and the private sector (Knight, 1997). Although the internationalization of higher education in Canada is widely discussed, and various forms of internationalization are analyzed (Altbach, 2002; Knight, 1997, 2013), there are specific goals and motives for internationalization in each higher educational setting. The newer this educational setting is to internationalization; the more necessity appears to study and understand the driving forces of internationalization, especially those related to leadership and decision-making in different educational systems. This point is of critical importance for the relationships between the Canadian province of Saskatchewan and Ukraine. These two partners have only recently been engaged in international education to develop related higher education policies.

Saskatchewan's government interest in the internationalization of higher education began to increase only since 1998 (Garcea & Hibbert, 2014). The province prioritizes international student policies mainly as a part of its comprehensive immigration interest (Assailly, 2012; Garcea & Hibbert, 2014; Saskatchewan, 2009). Ukraine can be similarly considered new to the internationalization of higher education. The internationalization of Ukrainian higher education manifests in the country's search for internationalization markets, anticipating mainly European direction. This prime focus on Europe reflects in standardizing key elements of higher education and introducing the Bologna Process into Ukrainian education (Kushnarenko & Knutson, 2014).

The Saskatchewan-Ukraine relationships have been scarcely analyzed in the relevant literature. Multiple sources explore the collaboration between Canada and Ukraine (Loreman et al., 2016; Kushnarenko, 2010; Nedashkivska & Bilash, 2015), but only few researchers prioritize the Saskatchewan-Ukraine relations in their works (Kishchuk, 2015; Zakharchuk, 2018). An even smaller amount, mainly government documents, covers some aspects of the Saskatchewan-Ukraine relationships in the education field (Saskatchewan, 2010; Saskatchewan Ukraine Relations Advisory Committee, 2010, 2012). Thus, critical literature presenting an in-depth picture of the nature and development of the Saskatchewan-Ukraine partnership is much needed. The significance of the detailed account of these relationships is not only in their potential to contribute to the education development of the two parties. The insights on these relations provide an opportunity to question the common perception of the Canada-Ukraine relationships as between developed and developing countries. For now, such perception posits developing countries as only "buying" countries (Albach & Knight, 2007, p. 294) and developed ones as providers of most services (Albach & Knight, 2007).

The purpose of the research is to examine the development and the nature of the Saskatchewan-Ukraine relationships in higher education by analyzing educational partnerships and collaborations between the relevant post-secondary institutions. This paper will discuss the history of the relations in education between Saskatchewan and Ukraine. Further, it will outline the current state of these educational relations on the examples of cross-border partnerships between two Saskatchewan and three Ukrainian public universities. Moreover, the paper will discuss prospects of the Saskatchewan-Ukraine relations in education and conclude with the recommendations for developing further Saskatchewan-Ukraine cooperation in the educational field.

Research method. In this paper, the Saskatchewan-Ukraine relationships in higher education are understood as strategic partnerships, collaborations, and other professional and academic initiatives in higher education at the institutional and provincial/national levels in Saskatchewan and Ukraine for “educational, socio-economic, and cultural benefits” (Saskatchewan Ukraine Relations Advisory Committee, 2012). A few examples of such relationships are the Memorandum of Intent between the Government of Saskatchewan and Chernivtsi Oblast to promote and facilitate international linkages in education, the Prairie Centre for the Study of Ukrainian Heritage on the University of Saskatchewan campus with the Study Abroad in Ukraine Program (Government of Saskatchewan, 2017), and the Students’ Mobility Program under the Canada-Ukraine Science Internship Program between the University of Regina and Ivano-Frankivsk National Technical University of Oil and Gas (University of Regina External Relations, 2011).

The research method employed in this study is document analysis, “a systemic procedure for reviewing or evaluating documents” (Bowen, 2009, p. 27). It is used to discover meaning and understanding and develop relevant knowledge (Bowen, 2009). The relevant documents were chosen based on the following considerations. Saskatchewan and Ukrainian public universities can be considered a microculture commonly influenced by the larger organizational culture of the government through macro-level policies and practices. The universities’ policy and mission depend on the federal/provincial (in Canada) and state (in Ukraine) policies in education and the demands of the time. Saskatchewan and Ukrainian universities are not entirely free in determining their missions just any way they please. In Saskatchewan, Canada’s International Education Strategy and the overall Saskatchewan’s provincial policies on education and immigration influence universities’ mission, highlighting its orientation towards doubling the number of international students. In Ukraine, several Ukrainian state laws on higher education and national development strategies determine Ukrainian public universities’ international direction. Therefore, given the Saskatchewan-Ukraine educational cooperation, there is a need to examine documents directly related to the Saskatchewan-Ukraine relations, those outlining Canadian federal and provincial policy initiatives, and the Ukrainian state legislature. As such, for this study, the data is collected from the following documents: *Building on Success: International Education Strategy* (Government of Canada, 2019), *Saskatchewan’s Immigration Strategy: Strengthening our Communities and Economies. Advanced Education Employment, Immigration and Labour* (Saskatchewan, 2009), *Saskatchewan-Ukraine Relations* (Government of Saskatchewan, n.d.), *Saskatchewan Ukraine Relations Fact Sheet* (Government of Saskatchewan, 2017), *Report of the Saskatchewan Ukraine Relations Advisory Committee* (Saskatchewan Ukraine Relations Advisory Committee, 2010, 2012)), *Law of Ukraine “On higher education”* (Verkhovna Rada of Ukraine, 2002, 2014), *National Developmental Strategy* (President of Ukraine, 2002, 2013).

Alongside the analysis of federal, provincial, and state legislative provisions, the study examines the websites of the universities involved in the Saskatchewan-Ukraine educational cooperation. They are two Saskatchewan universities – the University of Regina and the University of Saskatchewan, and three Ukrainian public universities – Yuriy Fedkovych Chernivtsi National University, Ivano-Frankivsk National Technical University of Oil and Gas, and Ternopil Volodymyr Hnatiuk National Pedagogical University. These data sources contribute to the limitation of the study: all detailed information about the Saskatchewan-Ukraine educational cooperation is available on each of the two Canadian universities’ websites, while all three Ukrainian universities only briefly mention their collaboration with Canada (Chernivtsi National University, n.d.; Ivano-Frankivsk National Technical University of Oil and Gas, n.d.; Ternopil Volodymyr Hnatiuk National Pedagogical University, n.d.). Therefore, the following data on the Saskatchewan-Ukrainian partnership are retrieved from the websites of the universities of Regina and Saskatchewan. Moreover, the relevant journal articles, news releases, reports, and books of the last 15 years contribute to understanding the matter under research.

Research results. The document analysis is conducted to provide information on three major categories: the history of the Saskatchewan-Ukraine relations, the current state of the Saskatchewan-Ukraine educational cooperation, and the prospects of such cooperation.

Historical overview of the Saskatchewan-Ukraine relations. Saskatchewan and Ukraine have a long history of social and political relations. Both parties' interest in internationalization and their historically strong ties lead to the recent renewal of their relationships. These relationships progress in many sectors: immigration, education, justice, health, agriculture, energy, and environment (Saskatchewan Ukraine Relations Advisory Committee, 2012).

In education, the relationships date back to the 1980s, when the first formal agreement between the University of Saskatchewan and the University of Chernivtsi was signed (Government of Saskatchewan, 2017). The agreement was renewed in 2008 when the province developed a Memorandum of Intent on Education with the Chernivtsi Oblast. This inter-university agreement is considered the longest-standing partnership between Canadian and Ukrainian universities (Saskatchewan Ukraine Relations Advisory Committee, 2012). Since then, the Saskatchewan-Ukraine relationships in education have been a product of individual and organizational efforts on both sides. These connections have taken different directions and forms, but a significant shift in the relationships occurred in 1991 after the collapse of the Soviet Union when Ukraine gained its independence (Government of Saskatchewan, n. d.; Saskatchewan Ukraine Relations Advisory Committee, 2010).

Though the history of the Saskatchewan-Ukraine relationships in post-secondary education started in the 80s of the 20th century, the intensive collaboration between provincial and state higher education institutions began only at the turn of the 21st century (Government of Saskatchewan, 2017). Such partnership was primarily facilitated by the education initiatives and recommendations under the Saskatchewan Ukraine Memorandum of Understanding signed in 1995. Even though in 2012, the Saskatchewan Ukraine Relations Advisory Committee admitted that the arrangements and conditions of the Memorandum of 1995 could be formally considered completed on behalf of both parties, the Committee concluded that there were still many issue areas to consider and further pursue. From then on, the Committee advised focusing not on a renewal of the formal agreement between the Government of Ukraine and Saskatchewan, instead to seek and negotiate arrangements with particular oblasts. For instance, a more comprehensive approach was suggested to identify Ukrainian oblasts for future cooperative efforts. As the Committee stipulated in its report, “[c]urrently agreements exist with Zhytomyr and Chernivtsi Oblasts. A number of other regional jurisdictions such as Lviv, Ternopil and Ivano-Frankivsk Oblasts together with the City of Lviv present interesting opportunities for strategic cooperation” (Saskatchewan Ukraine Relations Advisory Committee, 2012, p. 13).

Following the recommendations, the Saskatchewan government has recently contributed to developing the Saskatchewan-Ukraine educational collaboration. A unique role in these efforts belongs to the University of Saskatchewan and the University of Regina. As a result, reciprocal visits, educational missions, joint conferences, international work and study opportunities, and internship programs have intensified in the last ten years (Government of Saskatchewan, 2017).

The current state of the Saskatchewan-Ukraine relations. Two main influences shape the Saskatchewan-Ukraine educational relationships. The primary influence comes from the Ukrainian-Canadian diaspora. Formed in four waves over one hundred years by the immigrants from Ukraine and their descendants, the Ukrainian-Canadian diaspora has changed its educational priorities several times in response to historical transformations and political movements in Ukraine. This evolution of educational priorities reflected a shift from preserving Ukrainian culture, language, and literature in Canada to “establishing a broader educational base that is mutually beneficial to both Saskatchewan and Ukraine” (Kishchuk, 2015, p. xiv). The second influence on the Saskatchewan-Ukraine relationships is the increasing role of internationalization. In the education sector, internationalization is recognized as a process that has shaped national and institutional education policies and the higher education landscape worldwide (Altbach, 2002; Knight, 2013). Higher education in Saskatchewan and Ukraine is not an exception.

Currently, the Saskatchewan-Ukraine relationships in the education field are mainly determined by post-secondary institutions' initiatives. Each year increases the number of students participating in study abroad programs between Saskatchewan and Ukraine (Government of

Saskatchewan, 2017). The governments of both countries strongly support these post-secondary institutions' initiatives. The educational relationships between Saskatchewan and Ukraine develop through cross-border collaboration agreements and two Memoranda of Understanding between the University of Saskatchewan and two Ukrainian universities (Government of Saskatchewan, 2017). Moreover, in 2007 the University of Regina, alongside the Ivano-Frankivsk National Technical University of Oil and Gas, opened the Canada-Ukraine Science Internship Program. Likewise, the University of Saskatchewan is engaged in long-term cooperation with two Ukrainian universities: Chernivtsi National University and Ternopil Volodymyr Hnatiuk National Pedagogical University.

The Prairie Centre for the Study of Ukrainian Heritage (PCSUH) is a leading supporter of Saskatchewan-Ukraine educational partnerships at the University of Saskatchewan. It was established "to support the pioneering tradition of Ukrainian Studies" (PCSUH, n.d.c, para.1). The Center positions itself as "a hub for scholarly work and advocacy" (PCSUH, n.d.c, para.1) in the field of Ukrainian Studies. While providing an opportunity for the Canadian students to minor in Ukrainian Studies, it is also involved in many cross-border collaborative programs with two Ukrainian universities: Yuriy Fedkovych Chernivtsi National University and Ternopil Volodymyr Hnatiuk National Pedagogical University.

The PCSUH's Canada-Ukraine Initiative covers a wide range of actions, from supporting and promoting the research of the University of Saskatchewan faculty and graduate students on various contemporary political, social, and economic issues of the Canada-Ukraine relationship to providing targeted funding and academic opportunities for graduate students engaged in the area (PCSUH, n.d.a). The purpose of the Initiative is "to nurture and encourage a wider understanding of current Canada-Ukraine relations at the governmental and non-governmental level" (PCSUH, n.d.a, para. 1). Within this purpose and in addition to other activities, the Initiative (a) supports various scholarly conferences on issues relating to the Canada-Ukraine relationship, (b) promotes joint research projects between Canadian and Ukrainian scholars, (c) provides undergraduate and graduate research assistantships and designated research grants for those working within the Initiative to study contemporary Canada-Ukraine relations, (d) sponsors the public presentation of the academic work of the students supported by the Initiative, (e) co-ordinates and manages Internship programs, and (f) supports the publication and dissemination of research conducted under the program (PCSUH, n.d.a).

The *University of Saskatchewan Graduate Internship Program with Yuriy Fedkovych Chernivtsi National University* was created in 2006 with financial support from the Government of Saskatchewan through the Department of Advanced Education and Immigration (PCSUH, n.d.b). This internship program is primarily focused on the single-sided mobility of Canadian undergraduate or graduate students. As the PCSHU describes (n.d.b),

The program's purpose is to place a University of Saskatchewan graduate or post-graduate for a single semester [...] at the Hnatyshyn Centre for Canadian Studies [...], Chernivtsi National University. The student, whose graduate work is in the Canadian Studies field, teaches and works at the Centre. [...] The placement provides a rare and exciting international experience for graduate students, giving opportunity for recent graduates to acquire desirable teaching experience in their field of study. The placement also helps promote interest in Canadian Studies [...], and strengthens both the educational links between the universities, and the historical/cultural bond between the twinned regions of Saskatchewan and Bukovyna. (para. 1-3)

In cooperation with the partner institution of Ternopil Volodymyr Hnatiuk National Pedagogical University, the University of Saskatchewan, specifically St. Thomas More College, offers Spring Session in Ukraine Program. The program allows Canadian students to spend a sprint term (5 weeks from May to early June) in the Ukrainian university to undertake an intensive language and culture program (PCSUH, n.d.d). Language courses are available of three levels of Elementary, Intermediate, and Advanced Ukrainian, along with individual language tutoring. Apart from language orientation, the program also targets a cultural component. Thus, it offers a culture course of Anthropological Perspectives on Contemporary Ukraine (PCSUH, n.d.d).

The Canada-Ukraine Science Internship Program between the University of Regina and the Ivano-Frankivsk National Technical University of Oil and Gas functioned as a mobility program for Canadian and Ukrainian students. The internship program was designed and managed by the Office of Energy and Environment at the University of Regina to help undergraduate students gain international experience, which promoted their competitiveness in the global marketplace. The program provided an opportunity for senior engineering and science undergraduate students from the University of Regina to acquaint themselves with technologies and research in the oil and gas sector in Ukraine (University of Regina External Relations, 2011). Likewise, as the University of Regina External Relations (2011) stated,

Each year, the [...] program brings five students to Saskatchewan from western Ukraine to participate in three-month internship activities in Canada at various companies. During these internships, students learn western business practices and enhance Canadian business economy and culture by sharing their knowledge of Ukrainian culture and business. (para. 5)

In 2010, several Saskatchewan organizations, such as the Government of Saskatchewan's Ministry of Advanced Education, Employment and Immigration, MERA Consulting, Petroleum Technology Research Centre, Prairie Adaptation Research Collaborative, and SaskPower, volunteered to host internships for Ukrainian students and provide financial support for this purpose for the next five years. Moreover, after completing their undergraduate studies in Ukraine, the students were welcomed to return to Canada and continue their education at the graduate level at the Universities of Regina and Saskatchewan (University of Regina External Relations, 2010).

As can be seen from the partnerships between the Saskatchewan and Ukrainian universities, they are strongly supported by the Saskatchewan government and numerous non-governmental organizations. Interestingly, all the Ukrainian universities involved in the Saskatchewan-Ukraine relationships are public universities from western Ukraine. Given the nature of these international education initiatives, the University of Regina and Ivano-Frankivsk National Technical University of Oil and Gas have concentrated mainly on student mobility cooperation. At the same time, the University of Saskatchewan has a broader focus that is not limited only to student exchange programs but also encompasses many different scholarly activities.

Prospects of the Saskatchewan-Ukraine higher education collaboration. In the Saskatchewan-Ukraine relationships in higher education, both countries are proactive in maintaining and developing their partnership. Even though Saskatchewan and Ukraine are new to internationalization in higher education, they prioritize this process towards excellence and innovation in higher education and seek ways to strengthen their positions in the international arena. However, many questions arise about the nature and the prospects of the Saskatchewan-Ukraine relationships. This paper approaches the discussion of the prospects of the Saskatchewan-Ukraine relationships in higher education, considering the interdependence between (a) the differences in perception of Saskatchewan-Ukraine education partnerships and (b) the vision for the Saskatchewan-Ukraine relationships.

Differences in perception of Saskatchewan-Ukraine education partnerships. Several concerns originate from the discrepancies that different geo-political realities of Saskatchewan and Ukraine bring into the perceptions of and expectations from these relationships.

First, different geo-political realities in Canada and Ukraine resulted in different educational systems: decentralized versus mainly centralized despite the numerous decentralizing attempts, correspondingly. These dissimilarities tie the discussion on internationalization around autonomy in decision-making at various educational levels.

The decentralized nature of Canadian higher education manifests in the parallel operation of different provincial/territorial educational systems. Canada has neither a national system of education nor a national ministry of higher education. The provincial/territorial governments are constitutionally responsible for post-secondary education; however, there are overlapping responsibilities at the federal and provincial levels. This tension in federal-provincial relations appears both from federal control over national well-being and their connection to higher education and the historically predetermined 'federal spending power' (Cameron, 2004, p. 7). Higher

education internationalization is one area where such overlapping interests of the federal and provincial governments meet. As Muir (1997) pointed out, Saskatchewan developed a distinctive system of higher education shaped by the distinct history, economic, and demographic situation. In Saskatchewan, the higher education system comprises two universities – the University of Saskatchewan and the University of Regina – and their affiliated colleges and colleges with federated status, technical/vocational institutes, community/regional colleges, private/vocational schools, and bible colleges (Muir, 1997). Saskatchewan’s post-secondary institutions enjoy broader authority in choosing their institutional policy and strategic directions (Cameron, 2016; Jones, 2016).

On the contrary, Ukraine has a strongly centralized educational system with the Ministry of Education as a central decision-making body in all educational issues (Verkhovna Rada of Ukraine, 2014). Ukraine joined the Bologna Process in 2005; however, Ukrainian universities were only legally granted the right to make decisions on their own only in 2014. Nevertheless, the question of when, if at all, the universities received actual autonomy from the state remained open. The historical and socio-political factors contributed to the preservation of the inherited centralized governance both at the national level and at the level of separate institutions (Zakharchuk, 2021). Moreover, the financial dependence of the universities from the state contributed to the “remnant[s] of the Soviet educational bureaucracy, which [was] a rigid form with little new content” (Osipian, 2014, p. 82). As a result, such centralization significantly influenced the Ukrainian universities’ ability to strategically approach the issues of international cooperation (Zakharchuk, 2021). Therefore, the question persists: to what extent do these differences in the education sector power balance influence the relationships between the two parties?

Second, apart from the differences in the degree of institutional freedom in decision-making, higher education in Saskatchewan and Ukraine is based on different educational philosophies: Western and Post-Soviet. These educational philosophies stem from a particular geographical region’s distinct historical, social, cultural, and political realities. Thus, the Western educational philosophy is predominantly individualistic, encouraging initiative, independence, and pluralism of opinions, tending to greater freedom and autonomy at all levels, and welcoming multiculturalism (Hassan & Jamaludin, 2010). Typical for many post-Soviet countries, the centralized and structurally unified education system in Ukraine has been undergoing a series of paradigmatic shifts. Niyozov (2017) specified a few: (a) a move from a single ideology to the abundance of competing and changing values and norms; (b) an introduction of religious and nationalist discourses into a used-to-be atheistic nature of education; (c) a shift towards internationalization of educational institutions (pp. 92–93). Such Ukraine’s transition towards democracy and pluralism is not yet completed (Zakharchuk, 2021), and it might be either an asset or a liability in the Saskatchewan-Ukraine relationships.

The next gap embodies the discrepancies in different rationales for the internationalization of higher education. For the last several decades, globalization plays a leading role in shaping the higher education landscape in Canada. Advisory Panel on Canada’s International Education Strategy (2012) emphasized the global perspective of internationalization of Canadian education, determining the latter as “a key driver of Canada’s future prosperity” (p. viii). Global tendencies cause the growing federal interest in the internationalization of higher education in Canada, influencing economic and national well-being. Thus, doubling the number of international students “who will either decide to make Canada their home or return to their home countries as leaders” is one of Canada’s International Education Strategy goals (Advisory Panel, 2012, p. ix). The report emphasized the importance of attracting international students “to sustain the quality of the education systems” (Advisory Panel, 2012, p. 7) as a reason for developing international student policy. Consequently, by prioritizing the configuration of the political framework towards internationalization, the federal government determines the direction for further development of higher education for the provinces and territories to follow.

Moreover, a new version of Canada’s internationalization strategy places Ukraine in the scope of targeted countries for future educational collaboration and partnerships (Government of Canada,

2019). However, the Strategy emphasizes that each Canadian province or territory, education association, and institution should choose their partners based on their needs, backgrounds, historical ties, and so forth. The orientation of higher education towards internationalization is a priority for the Government of Saskatchewan, which recognizes the connection between international education and the province's economic prosperity. The governmental recognition is expressed in the Saskatchewan Plan for Growth: Vision 2020 and Beyond (Government of Saskatchewan, 2012). The strategies for Saskatchewan's long-term economic prosperity are: (a) increasing the number of international post-secondary students; (b) increasing the immigration and population growth through attracting and retaining international students; (c) promoting international engagement of students and business community; and (d) establishing the Saskatchewan's International Future Scholarship for domestic students to study business abroad and return to Saskatchewan after graduation (Government of Saskatchewan, 2012). Moreover, the Saskatchewan Ukraine Relations Advisory Committee (2012) urged the provincial government to maintain and facilitate close relations with Ukraine at all levels. The Committee emphasized that such ties were desirable and mutually beneficial given the historical experience and their previous success.

Conversely, as a post-Soviet country and “not a central player in international education” (Kushnarenko & Knutson, 2014, p. 25), Ukraine is still searching for its niche in the international arena. This search is greatly predetermined by Ukraine's geographic location – between the European Union and Russia. The move to economic and political integration with the European Union defines the character of Ukrainian internationalization. Ukraine pursues mainly European internationalization, for “[w]hen Ukrainians mention ‘internationalization’ of higher education, they usually mean ‘Europeanization’” (Kushnarenko & Knutson, 2014, p. 25).

For the 30 years, Ukraine has not developed a separate national strategy for internationalization in higher education. All internationalization reforms are outlined in several Ukrainian legislative documents – both *Laws of Ukraine “On higher education”* of 2002 and 2014 (Verkhovna Rada of Ukraine, 2002, 2014) and *National Developmental Strategies* of 2002 and 2013 (President of Ukraine, 2002, 2013). They emphasized the demand for internationalizing universities, developing international partnerships, and promoting academic mobility. As became evident from the recent study on the transformation of Ukrainian public universities (Zakharchuk, 2021), the universities had multiple opportunities for international cooperation. However, they did not always seize these opportunities due to the lack of state formal international strategy. Predominantly, international collaboration was initiated through personal connections between university staff and international colleagues. The efficiency of such international cooperation depends mainly on the university's capacity. It includes but is not limited to academic mobility, collaboration with international universities and non-educational organizations, participation in international research projects, and joint research. Ukrainian universities usually have an extensive geography of international cooperation. However, Polish universities remain the primary international partners. Such partnerships develop at the levels of institutes, individual faculties, and specialties (Zakharchuk, 2021).

Vision for the Saskatchewan-Ukraine relationships. A wide range of factors contributes to the vision for the Saskatchewan-Ukraine relationships. As the Saskatchewan-Ukraine relationships have focused on broadening the educational base and internationalizing higher education, they attracted the government and institutions of both parties (Government of Saskatchewan, 2015). Such renewed interest in the Saskatchewan-Ukraine relationships in higher education predominantly originates from the historically strong ties between Saskatchewan and Ukraine and the previous success of these relationships.

In light of the current political-economic context, several challenges influence the vision for the Saskatchewan-Ukraine relationships. The Saskatchewan Ukraine Relations Advisory Committee (2012) characterized the present moment as the most challenging for the Saskatchewan-Ukraine relationships, as “[it] offers even a greater challenge to adapt to the geo-political realities of the ‘new’ Ukraine and to build upon the last 21 years of partnerships at various levels between

Saskatchewan and Ukrainian interests” (p. 2). The challenges are mainly connected with civil liberties movements, democratic developments in Ukraine, Ukraine’s search for balance between Western Europe and the former Soviet Union states, military aggression of the Russian Federation in Eastern Ukraine, and a resultant current economic slowdown (Chernova & Pashkova, 2017; Kishchuk, 2015; Morelli, 2017; Saskatchewan Ukraine Relations Advisory Committee, 2012; Zakharchuk, 2021). Such an unstable political and economic situation made the supporters of the Saskatchewan-Ukraine cooperation carefully approach the educational partnerships between two parties. While the political and economic situation in Ukraine is very troubling, the Saskatchewan provincial government’s commitment to Ukraine relations remains unchanged. As Deputy Premier Krawetz indicated, “[s]ettlers from Ukraine helped shape our province more than a century ago, and we remain committed to enhancing this special, long-standing relationship ..., particularly in light of Ukraine’s current crisis” (Government of Saskatchewan, 2015, para. 3).

The vision on the Saskatchewan-Ukraine relationships in education becomes explicit mainly through the reports of the Saskatchewan Ukraine Relations Advisory Committee. Even if the three Ukrainian universities have comprehensive visions for educational cooperation with Saskatchewan, it is difficult to analyze those strategic plans as no relevant information is publicly available. From Saskatchewan’s perspective, the Saskatchewan Ukraine Relations Advisory Committee (2012) considers the field of Ukrainian Studies and language training a solid background to build closer collaboration and strategic partnerships with Ukrainian educational institutions. Moreover, the Committee encourages the province to develop other initiatives on various education-related topics, such as career development internships. Having a long-term strategy for the Saskatchewan-Ukraine cooperation, the Committee also identified specific short-term initiatives and actions. In 2010, the Committee set out three main recommendations within the Saskatchewan Ukraine Memorandum of Understanding: (a) to foster academic and professional initiatives such as reciprocal visits and joint conferences, as well as to establish a Chair of Ukrainian History at the University of Saskatchewan; (b) to expand the scope of international opportunities for students’ linguistic training while traveling, studying, and working in a partner university; (c) to promote career development initiatives for Canadian and Ukrainian students, such as internship programs, short-term exchanges, online educational courses, and so forth (Saskatchewan Ukraine Relations Advisory Committee, 2010).

In subsequent years, several steps were undertaken by the Saskatchewan government and institutions as responses to the recommendations. Among them were the inclusion of some cultural and historical aspects related to the Holodomor, the World War I Internment of Ukrainians, and Ukrainian diaspora into the curriculum development, the Provincial Government Mission to Ukraine, and the review of different programs and agreements for intergovernmental and inter-institutional cooperation (Saskatchewan Ukraine Relations Advisory Committee, 2012). While the following report of the Saskatchewan Ukraine Relations Advisory Committee in 2012 recognized the importance of the undertaken actions, it stressed the significant decline in the community interest towards language and culture learning. The Committee expressed a similar concern regarding “a significant diminished training capacity at institutional levels and a lack of community organizational focus in this sphere” (Saskatchewan Ukraine Relations Advisory Committee, 2012, p. 8).

At the same time, the Committee warned that if the community interest and the training capacity were not restored, the Saskatchewan-Ukraine education-based collaboration would decline. Thus, they specified further recommendations: to facilitate educational development of immigrant families through online counseling sessions with Ukraine-based specialists; to continue educational exchanges in Ukrainian studies; to support ongoing curriculum development regarding the inclusion of Ukrainian history and cultural aspects (Saskatchewan Ukraine Relations Advisory Committee, 2012). The Committee summarized that while the Saskatchewan-Ukraine educational partnership focused on thematic areas of cooperation, its development depended on further strategic evaluation of how the corresponding actions were implemented. Moreover, the 1995 Memorandum between Ukraine and Saskatchewan should be replaced with a comprehensive strategy for collaboration,

which outlined both the distinct targets for future strategic relationships and the mechanisms to oversight the agreements (Saskatchewan Ukraine Relations Advisory Committee, 2012).

Discussion of the results and conclusions. With internationalization being so important to Saskatchewan and Ukrainian post-secondary institutions and yet so different in forms and motivations, it has provoked reflections on the ‘drives’ that make the Saskatchewan-Ukraine relationships work. The complexity of the Saskatchewan-Ukraine relationships in higher education can be understood by looking into the circumstances and historical context of the Saskatchewan-Ukraine relations. These relations in higher education are mainly shaped by two influences: the Ukrainian-Canadian diaspora and the increasing role of internationalization of higher education.

While the Saskatchewan and Ukrainian governments strongly support the Saskatchewan-Ukraine relationships in education, numerous Saskatchewan non-governmental organizations also facilitate their development. These relationships are implemented through different internship programs and initiatives between two Saskatchewan and three western Ukrainian public universities. Given the nature of these international education initiatives, they concentrate mainly on student mobility. However, a broader focus has also been introduced through academic and professional initiatives promoting linguistic training, career and employment opportunities, joint educational projects, and conferences.

The prospects of the Saskatchewan-Ukraine educational relationships can be considered within the interdependence between the differences in perception of the Saskatchewan-Ukraine education partnerships by the partners and their vision for these relationships. Overall, the development of the Saskatchewan-Ukraine educational partnership depends on its further strategic evaluation and subsequent strategic planning on both sides. As such, a comprehensive strategy for collaboration with the distinct targets and the mechanisms to implement those actions is much needed.

The Saskatchewan-Ukraine educational collaboration is significant as it informs international cooperation in education between Canadian and Ukrainian universities. Moreover, the Saskatchewan-Ukraine joint programs in higher education set an example for Canadian universities to consider prospective cross-border partnerships with Ukrainian universities, attract more international students from Ukraine, and encourage Canadian students to study and practice internationally. Moreover, the Saskatchewan-Ukraine educational relations also contribute to the Canadian-European educational partnership and facilitate the discussion of joint Canadian-European degree programs, branch campuses, distant learning, and virtual academic mobility.

While the significance of the Saskatchewan-Ukraine educational relations is undeniable, there are multiple gaps in understanding the nature of these relations. These gaps contribute to the concerns and uncertainty about the future of the relationships. The challenges to the Saskatchewan-Ukraine educational relations mainly originate from the differences between the partners in the decision-making process, educational philosophies, rationales for and approaches to internationalization. However, the critical issue remains whether the significance of the Saskatchewan-Ukraine educational relationships counterbalances the discrepancies of geo-political situations and internationalization priorities of the parties.

As Saskatchewan and Ukraine have historically strong relationships in various spheres, it is essential to use them as a basis for building similarly productive and mutually beneficial Saskatchewan-Ukraine relationships in higher education. Thus, there is a need to capitalize on the motivations, nature, and factors influencing these relationships. As the next step, the reflections from relative stakeholders actively involved in implementing collaborative initiatives in Saskatchewan and Ukraine at various levels are crucial as they will contribute to a better understanding of the essence of the existing relationships and the strategic directions for their further development. New knowledge and insights on each partner’s internationalization policies will help plan the Saskatchewan-Ukraine partnership’s future and identify new forms of potential collaboration. Furthermore, such insights will inform a policy framework that better situates Saskatchewan and Ukrainian universities in future partnerships and facilitates effective educational programs and research initiatives between the parties.

As exemplified earlier, the recent interest in the internationalization of both Saskatchewan and Ukraine and their different rationales for internationalization lead to a number of concerns about the nature of the Saskatchewan-Ukraine relationships in education. What are the motives and prime goals that each party pursues in these relationships? Do the different rationales for internationalization at the national level influence the reasons and goals for the Saskatchewan-Ukraine relationships at the level of post-secondary institutions? In this regard, the decision on the priority of the Saskatchewan-Ukrainian relations belongs to the respective universities. For example, Ukrainian universities have to decide whether they prioritize the internationalization within the European Higher Education Area and regard the neighboring European countries as more important for educational partnerships or whether Canadian universities also pose an interest for further cooperation. If the decision favors broadening the geography of international partnerships, then Ukrainian universities have to approach such partnerships strategically. So far, Saskatchewan seems to show more interest and exemplifies strategic planning dealing with the Saskatchewan-Ukraine relationships in education.

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RUSSIA'S 2021 NATIONAL SECURITY STRATEGY IN THE CONTEXT OF THE STATE'S STRATEGIC CULTURE

СТРАТЕГІЯ НАЦІОНАЛЬНОЇ БЕЗПЕКИ РОСІЙСЬКОЇ ФЕДЕРАЦІЇ 2021 В КОНТЕКСТІ СТРАТЕГІЧНОЇ КУЛЬТУРИ ДЕРЖАВИ

СТРАТЕГИЯ НАЦИОНАЛЬНОЙ БЕЗОПАСНОСТИ РОССИЙСКОЙ ФЕДЕРАЦИИ 2021 В КОНТЕКСТЕ СТРАТЕГИЧЕСКОЙ КУЛЬТУРЫ ГОСУДАРСТВА

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Abstract. *On 2 July 2021 Russian President Vladimir Putin adopted the National Security Strategy of the Russian Federation. This is one of the most important strategic security document of the state, which presents the key threats and challenges for Russia in changing socio-political realities. The document is also a part of Russian external as well as internal strategic communication. This article seeks to analyze the new NSS in the context of the state's strategic culture and its narratives. Russian strategic culture makes a large impact on the state's identity, which is also affecting Russia's foreign and security policies. New NSS is an informative source of knowledge about the current Russian security culture, which helps to predict the Russian future policy direction.*

Keywords: *Russia's 2021 National Security Strategy, strategic culture, identity, strategic communication, foreign and security policy.*

Анотація. *2 липня 2021 року Президент Росії Володимир Путін підписав Стратегію національної безпеки Російської Федерації. Це один з найважливіших стратегічних документів держави в галузі безпеки, в якому представлені ключові загрози і виклики для*

Росії в мінливій соціально-політичній реальності. Документ також є частиною як зовнішніх, так і внутрішніх стратегічних комунікацій Росії. У даній статті зроблена спроба проаналізувати нову СНБ в контексті стратегічної культури держави, а також нарративів присутніх в стратегії. Російська стратегічна культура має великий вплив на ідентичність держави, що також відображається в зовнішній політиці і політиці безпеки Росії. Нова НСБ є досить інформативним джерелом знань про поточну російську стратегічну культуру, що також може допомогти в прогнозуванні майбутньої політики Росії.

Ключові слова: *Стратегія національної безпеки Російської Федерації 2021, стратегічна культура, ідентичність, стратегічні комунікації, зовнішня і безпекова політика.*

Анотація. *2 июля 2021 года Президент России Владимир Путин подписал Стратегию национальной безопасности Российской Федерации. Это один из важнейших стратегических документов государства в области безопасности, в котором представлены ключевые угрозы и вызовы для России в меняющейся социально-политической реальности. Документ также является частью как внешних, так и внутренних стратегических коммуникаций России. В данной статье предпринята попытка проанализировать новую СНБ в контексте стратегической культуры государства, а также нарративов присутствующих в стратегии. Российская стратегическая культура оказывает огромное влияние на идентичность государства, что также отражается на внешней политике и политике безопасности России. Новая НСБ является информативным источником знаний о текущей российской стратегической культуре, что также может помочь в прогнозировании будущей политики России.*

Ключевые слова: *Стратегия национальной безопасности Российской Федерации 2021, стратегическая культура, идентичность, стратегические коммуникации, внешняя политика и политика безопасности.*

Introduction. A National Security Strategy (NSS) is an essential document in a country's security policy, which defines the threats, challenges, priorities, and goals for the coming years. It contains information on how a state positions itself in the international arena, how it interprets the political situation in the world, what threats it considers as existential, and what steps the authorities will take in the future to achieve the goals set out in the strategy. Due to the nature of the document, it is quite general, however, its most important function is to specify the direction of the state's actions in a dynamically changing reality. The NSS is implemented by authorities at different levels of administration within the framework of specific laws and policies. In addition, the NSS plays an important narrative role, as it demonstrates a system of norms, values, and ideological foundations, which create the national identity. The concept of national identity and its impact on foreign and security policy is strongly connected with the strategic culture of a state.

The purpose of the study is to analyze the new National Security Strategy of the Russian Federation, adopted on 2 July 2021 [*Указ Президента Российской Федерации от 02.07.2021*], and its main narratives in the context of the strategic culture of the Russian state as well as its implication for the future foreign and security policies.

Analysis of recent research and publications. As Aglaya Snetkov pointed out in 2012, “[...]the study of Russian security is predominately a field dominated by positivist ontological analysis” [Snetkov, 2012, p. 522]. The studies were concentrated on the military and economic policies. Since then a lot has changed, mainly due to the Russian hybrid war in Ukraine as well as “the active measures” in the West. The attention is being paid now to ideological issues and Russian identity. Due to the powerful explanatory potential, the knowledge about the strategic culture of the state is crucial in understanding Russia’s behavior in global politics. Among the diverse publication

are works of A. Antczak, R. Kłaczyński, A. Włodkowska-Bagan, N. Eitelhuber, P. Baev, T. German, F. Ermarth, P. Sinovets, E. Rumer and many others. These authors analyze specific features and the long-term changes in Russian strategic culture throughout history.

The main results of the study. The key concept used in this paper is that of strategic culture (SC) which is a significant aspect of statehood. Jack Snyder, who has introduced this concept back in 1977, defines it as “the sum total of ideas, conditioned emotional responses, and patterns of habitual behavior that members of a national strategic community have acquired through instruction or imitation.” [Snyder 1977] Some other authors broaden further the notion of who is actually the bearer of strategic culture. So, Ken Booth defines SC as: “the concept of strategic culture refers to a nation’s traditions, values, attitudes, patterns of behaviour, habits, symbols, achievements and particular ways of adapting to the environment and solving problems with respect to the threat or use of force” [Booth 1990; see also: Lantis and Howlett, 2019].

Strategic culture reflects the character of the state, influences the formulation of strategic goals and directions of state policies. It is an ideological basis and quite often serves as a tool for legitimizing of the policies pursued by the state in international arena. The influence of strategic culture on foreign and security policy is highlighted mainly by the constructivist theory in international relations research. Strategic culture, and the closely related phenomenon of state identity, are influenced by many factors, including history, religion, geopolitical environment, demography, and the form of statehood. As Peter Katzenstein et al wrote: “Cultural or institutional elements of states’ global or domestic environments-shape state identity... Variation in state identity, or changes in state identity, affect the national security interests or policies of states. Identities both generate and shape interests.” (Jespersin, Wendt, Katzenstein, 1997, p. 15). Scholars try to determine how the identity of states shapes their interests, how a change of national identity brings about a change in state policy and worldwide [Ashizawa, 2008, p. 572]. The SC and the state identity are important concepts that could help to understand current Russian policies and actions. However, when discussing Russia one should keep in mind that depending on the degree of authoritarianism in a country, the role of what Snyder called “national strategic community”, as well as its constitution, may fundamentally change.

Snyder also cautioned us about the use of culture as the key explanatory concept: “Cultural explanations tend to be vague in their logic, with causes that are quite distant in time and sequence from their purported consequences. Often, culture is a residual label that is affixed to ‘explain’ outcomes that cannot be explained in any more concrete way. Thus, culture, including strategic culture, is an explanation to be used only when all else fails.” [Snyder 1990, p. 4]

Paying attention to the role of culture and identity is not new. Zbigniew Brzezinski, in his book *The Grand Chessboard*, analyzing the factors that contributed to the United States’ status as the only global superpower after the collapse of the Soviet Union, stresses the importance of American culture and value. Moreover, their appeal to other societies and especially to young people influences the US superpower position [Brzeziński, 1999, p. 24-29].

The impact of globalization on culture in recent decades is undeniable, American cultural patterns still dominate globally, however, due to the rise of China in international politics and its “sharp politics” in public diplomacy [Walker, Ludwig, 2017], the slow weakening of US global leadership, more attention is being paid to the strategic cultures of other countries and their impact on international political order.

As Cezary Dryzd points out, „[...] the term 'strategic culture' is relatively new to the vocabulary of security studies researchers, it has been functioning in science for hundreds of years[...]”[Dryzd, 2017, p. 175]. For many centuries, researchers, state activists, and diplomats have been reflecting on the national character of different state organisms and seeking answers to the question of why states with similar capabilities behave differently. This is an essential knowledge for forecasting and predicting state behavior in different situations. The first analysis in the area of

strategic culture is usually considered the work *History of the Peloponnesian War* by Thucydides, in which the author, apart from describing the course of the war between Athens and Sparta, also focuses on the cultural differences between the two nations and their leaderships. Rafał Wiśniewski draws attention that “the concept of strategic culture is a response to the need to take into account subjective factors shaping the foreign and security policy of the state” [Wiśniewski, 2012, p. 163].

Modern research on strategic culture developed during the Cold War and mainly focused on the Soviet area, thanks in part to the 1946 'Long Telegram' from the US Ambassador to Moscow, George Kennan. The term 'strategic culture' was first used in September 1977 by Jack L. Snyder in a report entitled *The Soviet Strategic Culture: Implications for Limited Nuclear Operations*. The purpose of the report was to try to predict the USSR's behavior in response to limited US nuclear weapons operations [Snyder, 1977, p. iii].

It is worth mentioning that the strategic culture of the Russian empire has been analyzed earlier, for example in the interwar period. In 1938 Włodzimierz Bączkowski, a Polish political scientist, Sovietologist, and publicist, published an article entitled *Remarks on the essence of Russian power*, in which he quite accurately describes the character of the Russian state, stating that “Russia, whose main state-forming processes took place east of Moscow, is from the point of view of the state (and not only state) culture an Asian state, superficially and externally tinged with Europeanism” [Bączkowski, 1938, p. 3]. The following fragment, which concerns the military sphere, is also worth to be quoted: “...the Russian invasions are the most appropriate manifestation of the power of this country, and the analysis of these wars must necessarily lead us to extract those elements which concentrate the essential content of Moscow's power. If we analyze Russia's invasions, however, we will find that in general Moscow has invaded nations that were either in a state of complete collapse or that offered little resistance” [Bączkowski, 1938, p. 2]. These statements seem to apply equally well to the Soviet Union and Russia under the rule of Vladimir Putin.

Russian strategic culture is an accumulation of historical, social, and political contexts [Ermarth 2009]. Its uniqueness is created by many elements, borrowed from both eastern and western traditions. Robert Kłaczyński, following W. Bączkowski emphasizes that the Russian SC is closer to the eastern culture, especially in terms of its attitude to power [Kłaczyński, 2012, p. 22]. As Anna Antczak argues, “Russia has also a strong history of authoritarian models due to the necessity of control over the huge territory inhabited by different nations, which could be granted only by strong authority.” [Antczak, 2018, p. 232]. Contemporary sociological research shows that Russian society believes that only a strong authoritarian power can save Russia from disintegration processes and chaos. As confirmed by the sociological research of the Levada Centre in 2020, $\frac{3}{4}$ of Russians believe that the state needs a strong and authoritative leader. Notable, that in 1989 only 25% of respondents thought so [Государственный патернализм 2020]. However, the Chechen wars together with the terrorist attacks at the end of the 1990s changed the Russian public's attitude toward the government.

Among the features of Russian strategic culture, Agata Włodkowska-Bagan also includes “the syndrome of a besieged fortress and chronic suspicion, the great state and imperial syndrome, as well as the belief in one's own uniqueness and mission with a simultaneous sense of alienation.” [Włodkowska-Bagan, 2017, p. 42]. The formation of these features has been influenced by history, geography, and wars conducted in different periods of history. The vast territory has always been a source of pride, but also anxiety, regarding an effective defense. After the collapse of the Soviet Union, Russia under President Vladimir Putin hasn't managed to overcome the Soviet heritage and adopt some of the components of the Soviet SC, which causes a lot of problems. Putin's long-standing rule and his entourage have been accompanied by a constant narrative about the external enemy, which is the United States and its NATO allies. Sociological research from May 2021 confirms that around 83% of Russians believes that Russian states have enemies, with the top five enemy states including the US (66%), Ukraine (40%), the UK (28%), Latvia, and

Poland (21%) [*Главные “дружественные” и “недружественные” страны, 2021*]. It is fair to say that the creation of external enemies has a long tradition in Russian SC and helps the authoritarian regime to survive and to gain public support. Russian policymakers continue to give primacy to military power in international relations, which is why they are developing their armed forces. Moreover, there is a continuation of the Soviet approach to communication policy. Disinformation, propaganda, and the influence on public opinion abroad, as well as surveillance and the fight against opposition within the country, are of strategic importance for Russian policy [*Pillars... 2020; Tsetsura, Kruckeberg, 2020*].

Indeed, the nation's traditions and values seem to play rather indirect role in strategic decision-making and are to great extent manipulated by authoritarian leaderships in states such as Russia, while official statements or documents are often full of populist promises or outright lies as exemplified well by the Putin's article “Об историческом единстве русских и украинцев“. This ever-present problem was well understood by Snyder, who wrote almost half a century ago: “...doctrinal statements by Soviet military writers and political figures are of limited value...” [Snyder 1977]. In fact, what is really relevant is strategic culture and interpretation of national interests of Vladimir Putin and his rather small immediate circle of advisers, therefore it requires more than reading documents to understand it, but also looking at actions and actual policies [Jesse 2020].

Since Vladimir Putin took power at the beginning of the 21st century, factors influencing the SC such as history and religion have been completely subordinated to authoritarian rule and have been repeatedly used to legitimize interference in the internal affairs of former Soviet republics, including Ukraine, Georgia, and Belarus. For several decades, Russia has strove to keep the former Soviet republics within its sphere of influence, supporting the ideology of “the Russian world” as a separate cultural and historical space that represents an alternative to Western, liberal values. This is of particular strategic importance for Putin's authoritarian rule, as the democratic development of the former Soviet republics would directly threaten the position of the president and his immediate supporters. Russian history is a source of national pride for its leaders and citizens, and the fact that Russia did not automatically become a world superpower after the collapse of the USSR was and is unacceptable to the Kremlin. Historical events are instrumentalized in the current imperialist policy, which affects relations with other states. A particular increase of Russian “active measures” abroad in this context occurred after the Revolution of Dignity in Ukraine and the occupation of Crimea and Donbas.

The National Security Strategy was adopted on 2 July 2021 and replaces the strategy from 2015. The main document regulating issues related to the NSS is the law “*On Strategic Planning in the Russian Federation*” from 2014 [*Федеральный закон О стратегическом планировании в Российской Федерации, 2014*]. The law states that the NSS is the essential document in the sphere of planning the development of the national security system of Russia. The body responsible for preparing the document is the Security Council of the Russian Federation, and the update of the document should take place every six years. Therefore, one should be careful to distinguish general culture of the Russia's population, including attitudes toward related issues, and the strategic culture of its authoritarian leadership, which can only partly be surmised from official documents, but these should be seen in contexts of relevant policies and other deeds. Official documents such as NSS do not necessarily reflect the strategic culture of the Russian nation, but should be seen in the same way as the old Soviet documents, instrument for influencing both internal and external audiences, as is correctly underlined in the text. However, it does provide some useful material to attentive observer for better understanding strategic culture of the ruling elite.

The new NSS identifies nine priority areas of national security: preservation of the Russian people and development of human capital, defense, state, and public security, information security, economic security, scientific and technological development, ecological security and rational use of natural resources, protection of traditional values, culture and historical memory, as well as strategic

stability and mutually beneficial cooperation. Compared to the previous 2015 NSS, two new priorities have been identified - information security and protection of traditional values, culture, and historical memory.

As Vitaly Yarmolenko points out, “The strategy for the first time consolidates the concept of “sovereign statehood in Russia” (Rus. *Суверенная государственность России*), which means the state's ability to conduct independent foreign and domestic policy and to effectively resist external pressures.” [Ярмоленко, 2021]. The attitude towards the West and the United States has not changed - they remain the most important threat to the Russian state in many key areas. In this NSS framework, this is expressed as the following: “Unfriendly countries are trying to use the socio-economic problems in the Russian Federation to destroy its internal unity, fuel and radicalize the protest movement, support marginalized groups and divide Russian society.” [Указ Президента Российской Федерации от 02.07.2021]. This sentence underlines that any protests in Russia are initiated from abroad and must therefore be suppressed in the interests of security. Allies in the strategy include China, India, the Commonwealth of Independent States, Belarus as part of the Union State, and such international organizations as the Eurasian Economic Union and the Collective Security Treaty Organization. It is important to emphasize that, in the new strategy authors underline the need to develop bilateral cooperation between Russia and the quasi-states of the Republic of Abkhazia and the Republic of South Ossetia.

Another crucial aspect of the strategy is the dangers of the Internet, what is understood as fake news and disinformation about Russia, distorted images of historical facts, appeals to organize public disturbances, and much more. Following in China's footsteps, the Russian authorities recognize the dangers of freedom of expression on the Internet, and for several years they have been taking steps to increase their control over the global network and society respectively. Concerning the activities of the Russian opposition activist Alexei Navalny and his supporters, who managed to organize several major protests in early 2021, there is an activation of efforts to cut Russians off from the global Internet [Domańska, Rogoża, 2021]. Concrete measures were taken in this direction, for example, the so-called "sovereign internet" law, which came into force on 1 November 2019 [Федеральный закон от 01.05.2019 № 90-ФЗ], or the slowing down of Twitter in March 2021 [Rosja rozpoczyna wyłączenie Twittera?, 2021].

Protection of traditional values, culture, and historical memory is one of the top priorities in the national security of the Russian Federation. In the chapter entitled *Russia in the modern world: trends and opportunities*, it is needed to highlight point nr 19, which states that “the problem of moral leadership and the creation of an attractive ideological stance of the future international order is becoming increasingly relevant” [Указ Президента Российской Федерации от 02.07.2021]. This reflects the tendency to understand Russia as a unique civilization with its values that could constitute an ideological project for the post-soviet states. Russian authorities are aware that the cultural sphere is very important to achieve superpower status in international politics. The document includes the concept of cultural sovereignty, which is the basis of the security of the Russian state and the foundation of Russian society. Cultural sovereignty, according to the authors of the NSS, is threatened by "westernization", and the United States and its allies are explicitly identified as a threat in this area.

Russia's new national security strategy, according to Witold Rodkiewicz and Piotr Żochowski, is, first of all, an element of strategic communication, designed both for its society and for external actors, and reflects “the thinking not only of their authors (who come from the security apparatus) but also for Russia's political leadership (as the authors try to match the content to their expectations).” [Rodkiewicz, Żochowski, 2021]. Analysts from the New Europe Institute write that “it is rather a form of self-promotion and projection of capabilities possessed in the context of engagement on the international arena” [Olech, Pińczak, 2021]. It can also be argued that some elements of Russia's national security strategy are determined by the country's strategic culture, which has evolved over the past few decades since Vladimir Putin has been in power.

To see the bigger picture of the Russian strategic communication, President Vladimir Putin's article entitled *On the Historical Unity of Russians and Ukrainians* from July 12, 2021, must be reviewed [Путин, 2021]. It is closely connected with the NSS, which was adopted two weeks earlier. The article does not present a fundamentally new view of the history of Ukraine and the Ukrainian people, as the main narratives have been repeated quite frequently by the Russian President on various occasions. The narratives mainly concern the fact that Ukraine in its present borders is a Soviet creation and that the modern, independent Ukrainian state is the Western "anti-Russian" project. The article contains a lot of imperial and Soviet myths and lies about Ukrainian history and identity. Furthermore, due to the order from Russian Defense Minister Sergei Shoigu, the article was added to the military patriotic directorate's curriculum [*Статью Путина включили в снусок*, 2021]. It is worth mentioning that the article was translated into Ukrainian and published on official web pages. This means that Russian authorities continue to pursue the imperial politic against Ukrainians. The key aim is to make fundamental changes to the identity of the Russians and Ukrainians, which poses an enormous threat to Ukrainian security and independence. Additionally, the article is an important element of the Russian strategic communication, highlighting the main elements of the SC of the state - the role of history, Orthodox religion, and Russian language as elements building a common space of values, encompassing Ukraine, Belarus, and Russia. Putin once again emphasizes that Russia's aggressive actions towards its neighbors are justified, and this understanding of reality allows the Russian leadership to take all necessary steps to protect the common space and "one nation" from Western-liberal influence. The article amends the NSS in the context of relations with Ukraine, as the authors do not devote any attention to this topic. The NSS only emphasizes the importance of relations with the countries of the Commonwealth of Independent States and the strengthening of brotherly relations between Russians, Ukrainians, and Belarusians.

Conclusions. The new national security strategy of the Russian Federation demonstrates distinct elements of the country's strategic culture. It is primarily concerned with Russia's contemporary position and goals, which are the transforming of the international order and becoming the moral leader in the post-soviet sphere. The "besieged fortress syndrome" is linked to the confrontation with the United States and its allies, which for a long time have been accused of exploiting Russia's weaknesses by interfering in the Russian information environment, or of so-called "exerting control over Ukraine". These actions from the perspective of the Russian leadership, represent an existential threat to Russian interests and security. Importantly, the role of cultural sovereignty is specified, so it becomes an important element of the security strategy. Strengthening the role of the Russian language and the Russian point of view on international affairs abroad will be a priority action for the next few years. The Great Power Syndrome manifests itself in relations with neighboring states, which in the view of the Russian authorities should not be independent actors in international relations. It is worth noting the slight change in the narrative on Ukraine compared to the previous NSS, as the new strategy does not give special importance to the conflict in Donbas. The NSS of the Russian Federation is certainly an element of strategic communication rather than a real list of threats and challenges for the next years.

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STUDY OF EXPERIENCE OF THE APPLICATION OF GENDER QUOTAS IN THE POLITICAL SPHERE OF THE EU COUNTRIES AND UKRAINE THROUGH THE PRISM OF EFFICIENCY

ВИВЧЕННЯ ОСВІДУ ЗАСТОСУВАННЯ ГЕНДЕРНИХ КВОТ У ПОЛІТИЧНІЙ СФЕРІ ДЕРЖАВ ЄС ТА УКРАЇНИ ЧЕРЕЗ ПРИЗМУ ЕФЕКТИВНОСТІ

ИЗУЧЕНИЕ ОПЫТА ИСПОЛЬЗОВАНИЯ ГЕНДЕРНЫХ КВОТ В ПОЛИТИЧЕСКОЙ СФЕРЕ ГОСУДАРСТВ ЕС И УКРАИНЫ ЧЕРЕЗ ПРИЗМУ ЭФФЕКТИВНОСТИ

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Abstract. *The article reveals the experience of using gender quotas and the issues of their effectiveness in the political sphere of the European Union and Ukraine. The relevance of the article is due to the fact that gender quotas are a common and at the same time institutionalized mechanism for ensuring gender equality. The article uses historical, comparative and structural-functional research methods. The authors determined the legal basis of gender quotas, mechanisms for their implementation, types of quotas and criteria for their effectiveness. Legislative candidate quotas and voluntary party quotas have been found to apply in European countries. The experience of applying gender quotas in the EU and Ukraine was studied. Gender quotas have been shown to increase women's representation, but not immediately after application. The effectiveness of quotas is determined by a good legal basis and the use of quotas in combination with other means. It is determined that even a single application of gender quotas has a lasting effect on increasing the number of women in representative bodies. The adoption of voluntary party quotas by leading political parties also contributes to the equal representation of women and men. In addition to directly affecting the number of women in the legislature, gender quotas indirectly affect other aspects of life.*

Key words: *gender, gender equality, gender quotas, affirmative action, European Union.*

Анотація. *Стаття розкриває досвід використання тендерних квот та питання їх ефективності у політичній сфері держав Європейського Союзу та України. Актуальність статті зумовлена тим, що тендерні квоти є поширеним та водночас інституціалізованим механізмом забезпечення тендерної рівності. У статті застосовано історичний, порівняльний та структурно-функціональний методи. Авторами було визначено правову базу тендерних квот, механізми їх реалізації, види квот та критерії їх ефективності. Виявлено, що в європейських країнах застосовуються законодавчі кандидатські квоти та добровільні партійні квоти. Було досліджено досвід застосування тендерних квот в державах ЄС та Україні. Доведено, що тендерні квоти дають можливість збільшити представництво жінок, але не відразу після початку застосування. Ефективність квот зумовлюється якісним законодавчим підґрунтям та застосуванням квот в комплексі з іншими засобами. Визначено, що навіть одноразове застосування тендерних квот дає тривалий ефект на збільшення кількості жінок у представницьких органах. Прийняття добровільних партійних квот провідними політичними партіями також сприяє рівному представництву жінок та чоловіків. Окрім прямого впливу на кількість жінок у законодавчих органах, тендерні квоти опосередковано впливають на інші аспекти життя.*

Ключові слова: *тендер, тендерна рівність, тендерні квоти, позитивна дискримінація, Європейський Союз.*

Аннотация. *Статья раскрывает опыт использования гендерных квот и вопросы их эффективности в политической сфере государств Европейского Союза и Украины. Актуальность статьи обусловлена тем, что гендерные квоты являются распространенным и одновременно институциализованным механизмом обеспечения гендерного равенства. В статье использованы исторический, сравнительный и структурно-функциональный методы. Авторами были определены правовая база гендерных квот, механизмы их реализации, виды квот и критерии их эффективности. Выявлено, что в европейских странах применяются законодательные кандидатские квоты и добровольные партийные квоты. Было исследовано опыт применения гендерных квот в государствах ЕС и Украины. Доказано, что гендерные квоты дают возможность увеличить представительство женщин, но не сразу после начала применения. Эффективность квот обусловлено крепким законодательным основанием и применения квот в комплексе с другими средствами. Определено, что даже однократное применение гендерных квот дает длительный эффект на увеличение количества женщин в представительных органах. Доказано, что гендерные квоты дают возможность увеличить представительство женщин, но не сразу после начала применения. Принятие добровольных партийных квот ведущими политическими партиями также способствует равному представительству женщин и мужчин. Кроме прямого влияния на количество женщин в законодательных органах, гендерные квоты косвенно влияют на другие стороны жизни.*

Ключевые слова: *гендер, гендерное равенство, тендерни квоты, позитивная дискриминация, Европейский Союз.*

Introduction. Gender equality is recognized as one of the hallmarks of a democratic society. Accordingly, both men and women have the same opportunity to participate in all spheres of public life, including the political sphere. However, gender representation in the political sphere may be unbalanced, as a result of which one of the genders may be under-represented. Therefore, ensuring equal rights and opportunities for men and women is one of the tasks of modern society. A number of mechanisms are aimed at achieving gender equality, among which gender quotas play an important role.

The relevance of the article is due to the fact that gender quotas are a common and at the same time institutionalized mechanism for ensuring gender equality, so it is advisable to study the experience of their application.

The aim of the article is to study the experience of using gender quotas and their effectiveness in the political sphere of the European Union and Ukraine.

Analysis of recent research and publications. In our article we analyze the legislation of the EU and Ukraine, statistics from various sources, as well as use the scientific works of some European researchers.

In particular, T. Verge and E. Lombardo studied the Spanish experience of using legislative quotas with sanctions for non-compliance with quotas. L. Swiss and M. Fallon studied the influence of the number of women deputies on the socio-economic policy of the state. P. Profeta in her research demonstrated the effectiveness of gender quotas in terms of productivity of selected candidates. The effectiveness of gender quotas was also studied by S. Bush and P. Zetterberg, P. Bello, A. Casarico.

Several scientific methods were used in the study. The mechanism of gender quotas was explained using the structural-functional method. The use of historical and comparative methods allowed to study the results of the application of quotas over time and to draw conclusions about their effectiveness of gender quotas.

Presentation of the main materials. One of the most common means of ensuring gender equality is gender quotas. Gender quotas are a tool aimed at accelerating the achievement of gender-balanced participation and representation, by establishing a certain proportion or number of seats that should be occupied by women or men, usually according to certain rules or criteria [*European Institute for Gender Equality*, nd].

Gender quotas are implemented in the form of positive discrimination, i.e. they are a set of measures aimed at increasing the opportunities of the less represented part of society [*Kento*, 2021].

The regulatory framework for the use of quotas is based on a wide range of international and national commitments and principles relating to the equal rights and opportunities of women and men in political decision-making. These include international conventions, such as the International Covenant on Civil and Political Rights (1966), the Convention on the Elimination of All Forms of Discrimination against Women (1979); regional human rights treaties, in particular the European Convention on Human Rights (1950), as well as declarations adopted at the international and national levels.

The UN Convention on the Elimination of All Forms of Discrimination against Women allows for the use of special measures aimed at promoting gender equality, and stresses that these measures should be abolished once the goals have been achieved [*Mizhnarodnyi blahodiinyi fond «Ukrainskyi zhinochyi fond*, 2020].

During the implementation of gender quotas, although the principle of equality is declared, in fact the emphasis is on increasing the representation of women as the underrepresented gender.

In a global survey of parliamentarians conducted by the Inter-Parliamentary Union in 2008, women parliamentarians identified obstacles to a successful political career: domestic responsibilities, prevailing cultural attitudes about the role of women in society, lack of family support, lack of finances and lack of support from political parties [*Dahlerup, Hilal, Kalandadze, Kandawasvika, Nhundu*, 2013].

The effectiveness and significance of gender quotas depends on several factors:

- Setting a specific goal to be achieved as a result of the introduction of quotas;
- Existence of clearly developed quota rules;
- Sanctions for non-compliance with gender quotas [*Dahlerup, Hilal, Kalandadze, Kandawasvika-Nhundu*, 2013].

O. Vilkova singles out four main legal mechanisms for the implementation of gender quotas, noting that these mechanisms can sometimes be combined:

1) consolidation of gender quotas in the Constitution. That is, the implementation of the principle of equal opportunities to determine the gender composition of parliament can be specified in the Constitution, indicating the proportions for women and men.

2) implementation of gender quotas through election legislation. This mechanism is achieved through the application of the principle of equal opportunities by the subjects of the

electoral process, the definition of gender norms and the establishment of sanctions for violations of this principle in national legislation, in particular electoral laws.

3) a separate law on equality, which establishes equality between men and women (equal status).

4) statutes of political parties [Vilkova, 2014].

The International Institute for Democracy and Election Promotion identifies three main types of gender election quotas:

1. Legally reserved seats. Not applicable in EU countries.
2. Legislative candidate quotas. Regulated by the Constitution or other laws
3. Voluntary quotas of political parties [European Institute for Gender Equality, nd].

Most quotas are aimed at increasing the representation of women, given the under-representation of women in political institutions. That is, quota systems are usually aimed at ensuring that women make up at least 30 or 40% of the total number of elected candidates.

However, some quota systems are constructed as gender-neutral, meaning that they aim to correct the under-representation of women and men. In this case, there may be a requirement that neither men nor women occupy more than 60% and have at least 40% of seats.

The main idea of the quota system is to recruit women to political positions and ensure their full participation in political life. In some countries, quotas are used as a temporary measure until barriers to women's access to politics are removed, but most countries have not stopped at temporarily applying quotas.

Sometimes double quotas are also applied, not only requiring a certain percentage of women on the electoral list, but also preventing women candidates from simply falling to the bottom of the list with little chance of being elected.

In the countries of the European Union, two types of gender quotas are used in elections to national parliaments: voluntary party quotas and legislative candidate quotas.

It should be noted that the constitutional quotas in the countries of the European Union are not directly applied. However, some EU constitutions not only declare equality in all areas, but also allow or recommend the use of special means (quotas) both at the legislative level and the use of voluntary quotas by political parties. For example, the French Constitution stipulates that the law should promote equal access for women and men to electoral mandates and positions, as well as to professional and social responsibilities. Also, the Constitution recognizes the responsibility of political parties for supporting and promoting this principle [Constitutions Françaises, 1958].

Equality is declared in the Italian Constitution. Thus, according to Article 51 of the Italian Constitution, "any citizen of any gender has the right to hold public office and to be elected to office on equal terms, in accordance with the conditions established by law." To this end, concrete measures are being taken to promote equal opportunities for women and men [Constitution of the Italian Republic, 1947].

The Greek Constitution stipulates that the use of positive action to promote equality between men and women is not considered to be gender discrimination (Article 116). The state cares about eliminating existing inequalities, especially for women [Constitution of Greece, 2019].

As for the legislative candidate quotas, their application is regulated differently in European countries. For example, Spanish law (Article 44 of the Organic Law on Electoral Regime) stipulates that lists of candidates in elections at all levels, including those of the Congress of Deputies, must have a balanced proportion of women and men, so that candidates of all genders are at least 40 per 100 members. The 40% quota applies not only to the list as a whole, but also to each group of five candidates, which prevents women from being placed at the bottom of the list [Ley Orgánica, 1985].

The Polish Electoral Code stipulates that the electoral list should not include less than 35% of men and women (Article 211) [Kodeks wyborczy, 2011].

French law stipulates that the difference between the number of candidates of each gender, which the party nominates in single-member constituencies, may not exceed 2% (Article 9-1) [Relative to the financial transparency of political life, 1988].

According to the Irish Election Act, political parties lose 50% of government funding if there are less than 30% of male or female candidates on the electoral list [*Electoral act, 1997*]

Among the countries of the European Union, voluntary party quotas are applied in 22 countries, which is 81.5% of the total number of states. At the same time, legislative candidate quotas are used in only 11 countries (40% of the total).

The OSCE Office for Democratic Institutions and Human Rights, in its publication "Support for Women's Participation in Political Parties", identifies criteria for the effectiveness of voluntary party quotas [*Organization for Security and Co-operation in Europe, 2014*].

The first criterion is that quotas should provide for a relatively high proportion of women among party candidates. For example, the Spanish Socialist Workers' Party and the United Left have 40 percent gender quotas. The Social Democratic Party of Germany also has a 40 percent quota, and the Union 90 / Greens has set a 50 percent quota.

Second, quotas should include provisions on the order of candidates on the party list. A number of parties indicate not only a certain share of women in the list of candidates or the maximum or minimum share of candidates of each gender, but also the positions they should occupy in the party lists. Some Swedish parties adhere to the principle that men and women take turns in the list of candidates so that women make up not only 50% of the candidates, but also as close as possible to 50% of the number of elected deputies.

The third criterion - quotas should be formulated in accordance with clear and widespread cultural customs and traditions.

According to the fourth criterion, quotas should be institutionalized in organizational structures and official nomination regulations. That is, to ensure the effectiveness of voluntary quotas, they must be formally included in the party's statute, internal regulations and the party's political course.

The party leadership can also ensure an increase in the representation of women in the party's governing bodies by setting voluntary quotas for members of key governing bodies. Such quotas may be introduced in the form of minimum thresholds for the representation of women at party congresses and conferences, in the composition of the committee for the selection of candidates, as well as in the governing structures of the party.

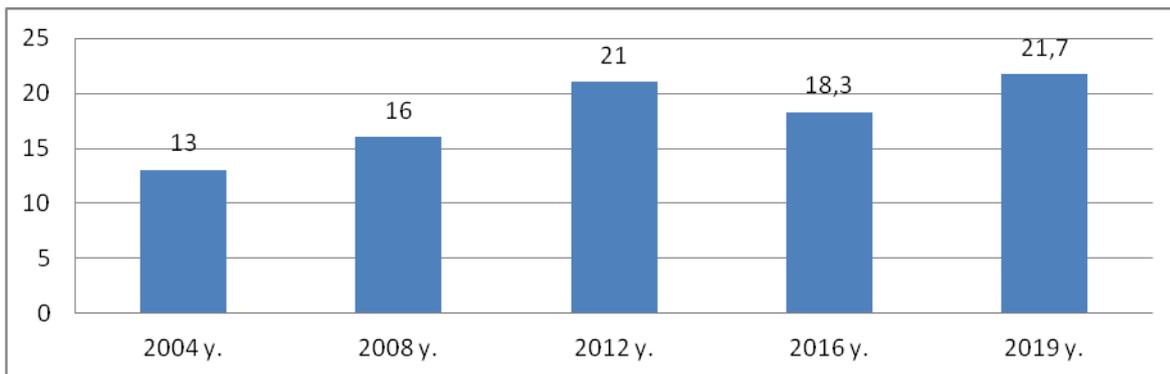
For example, in the Christian Democratic Union of Germany, the results of elections to party structures are considered invalid if women make up less than one third of the nominees [*CDU, 2019*], and according to the rules of the Social Democratic Party of Germany, its central body must be at least 40% of each gender [*Sozialdemokratischen partei deutschlands, 2019*].

If we compare the application of quotas with the level of gender equality in elected authorities, we can draw several conclusions. In northern European countries, Sweden and Finland, where there is in fact a gender balance in the political sphere, no legal gender quotas are currently in place, although left-wing Swedish and Finnish parties adhered to party quotas in the 1990s.

Both the Nordic countries, as well as Norway, which is not a member of the EU, underwent a phase of legislative and institutional regulation during the twentieth century, which maximally facilitated women's rights. That is, a state that has achieved gender equality may not take special measures to maintain this status, society is capable of self-regulation of gender parity.

In a number of countries with a low representation of women in national parliaments, such as Romania, Hungary and Slovakia, political parties apply voluntary party quotas, but there are no legislative candidate quotas. Separately, we note Greece, where both types of quotas are implemented, but so far the number of men in the Greek parliament far exceeds the number of women.

It should be noted that in 2019, according to the decision of the Supreme Civil and Criminal Court of Greece, a 40% gender quota was set for candidates during elections at all levels: national, regional, municipal and European Parliament elections. This legal norm was implemented in the early parliamentary elections in 2019.

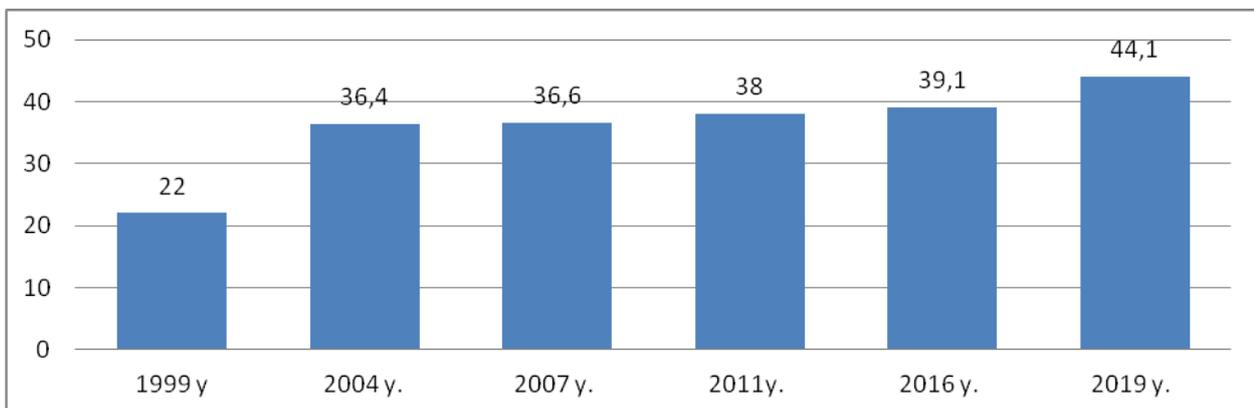
*Illustration 1.***Percentage of women in the Greek national parliament**

Source: created by the authors based on [European Institute for Gender Equality (nd)].

One can trace the dynamics of the change in the number of women in the Greek parliament over the last 15 years. Women are underrepresented in the national parliament, although there is a positive trend towards an increase in their number. Gender quotas introduced in 2019 did not have a significant effect on early elections.

For comparison, Spain also applies both voluntary party quotas and legislative candidate quotas. Legislative changes setting 40% gender quotas in elections at all levels were made in 2007. Spain does not have the same historical experience of gender equality as the Nordic countries, but the representation of women in the national parliament and the European Parliament exceeds 40%.

Note that one of the largest political parties - the Spanish Socialist Workers' Party adopted a 25% quota for women in 1988, later increased it to 40% [European Institute for Gender Equality, nd].

*Illustration 2.***Percentage of women in the lower house of the Spanish parliament**

Source: created by the authors based on [European Institute for Gender Equality (nd)].

However, even before the adoption of the mandatory gender quota in 2007, the representation of women in the Spanish political arena was quite high.

According to T. Verge and E. Lombardo, Spain implemented gender quotas with strict sanctions for parties, which ensured the effective implementation of the gender-balanced principle [Verge, Lombardo, 2015]. According to the researcher, the effectiveness of gender quotas is due to the fact that strict legislative quotas were preceded by the adoption of voluntary party quotas by an influential socialist workers' party.

A similar example of the introduction of gender quotas is shown in Belgium, where the successful increase of women in parliament was made possible by the gradual introduction of party quotas. Thus, a law passed in 1994 provided for a gradual increase in seats for women in parliament. In 1996, no more than three-quarters of the same gender could be on the party's electoral lists; in 1999, that limit rose to two-thirds. In the 2002 elections, the first three places on the party list could not be occupied by members of the same gender. In the next election, this principle was introduced for the two highest positions on the electoral roll. As a result, more than 40% of the seats in the Belgian parliament are held by women. Belgian political parties also apply quotas ranging from 25 to 50 percent.

It can be concluded that gender quotas provide an opportunity to increase the representation of women, but not immediately after the start of application. The conditions for the effectiveness of electoral gender quotas are the legal basis and the use of quotas in combination with other means. The adoption of voluntary party quotas by leading political parties will also contribute to strengthening the equal representation of women and men.

In addition to directly affecting the number of women in the legislature, gender quotas indirectly affect other aspects of life.

According to L. Swiss and K.M. Fallon in their study, the increase in the number of women legislators leads to the fact that the health care sector becomes more priority, social spending increases and poverty decreases [Swiss, Fallon, Kathleen, 2012].

Mr. Profeta notes that the indicator of the effectiveness of gender quotas is the quality of work of selected candidates and their productivity. There are several problems with the functioning of quotas that may call into question their appropriateness. In particular, if elections are held with quotas, this may prevent the nomination and election of more worthy candidates, and candidates elected by quota may not be competent enough. According to the researcher, the introduction of gender quotas, even temporary ones, can still be useful for expanding the representation of women [Profeta, 2017].

S. Bush and P. Zetterberg argue that the adoption and implementation of electoral gender quotas helps to enhance the reputation of the current government of this country [Bush, Zetterberg, 2021].

Researchers A. Baltrunaite, P. Bello, A. Casarico, analyzed the temporary experience of introducing mandatory gender quotas in local elections in Italy in 1993 [Baltrunaite, Bello, Casarico, Profeta, 2014]. A law was then passed stipulating that there could not be more than 2/3 of the total number of candidates of the same gender. Two years later, the provision on gender quotas was repealed, but the law was in force during the 1993 local elections. As a result of the study, it was concluded that even temporary quotas have a long-term effect on the increase of women in representative bodies, i.e. the effect of quotas can be felt for years after their introduction.

As for Ukraine, the use of gender quotas is allowed by the Law on Ensuring Equal Rights and Opportunities for Women and Men, adopted in 2005. According to the law, the use of positive actions aimed at eliminating inequality between men and women is allowed. The Law on Political Parties, adopted in 2013, regulated the use of 30% of gender quotas in the lists of political parties. However, quotas were voluntary without any sanctions for non-compliance. Accordingly, in the 2014 parliamentary elections, only 31% of parties adhered to quotas. Nevertheless, 11% of the total number of deputies were elected, which was the highest rate of women's representation in the history of parliamentary elections in Ukraine. The Law on Local Elections, adopted in 2015, also enshrined voluntary 30% gender quotas. Most political parties complied with the quota requirement.

During the 2015 local elections, 15% of regional council deputies were women. In the last local elections in 2010, this figure was 12% [Komitet vybortsiv Ukrainy, 2015].

As a result of the election, the average number of women deputies in the councils of cities and regional centers was 18.1%. Compared to the previous composition of city councils, the situation with the representation of women in 11 out of 22 councils of cities and regional centers has improved.

A new stage in ensuring gender equality was the adoption of the Electoral Code in 2019, the new document sets a gender minimum for both genders at 40%. In particular, the code states that when forming electoral lists, a party must ensure that at least two candidates of each gender are present in each of the five electoral lists [Vyborchyi kodeks Ukrainy, 2020]. This norm applies to elections to the Verkhovna Rada, oblast, rayon, rayon city councils, as well as elections in communities with 10,000 or more voters.

The 40% gender quota enshrined in the Electoral Code was first applied in the 2020 local elections. It should be noted that 43% of women ran for election to 22 regional councils, as well as to 24 city councils of cities-regional centers.

The Ukrainian Women's Fund analyzed the electoral lists of political parties in elections to city councils of such cities as Lviv, Kharkiv, Khmelnytskyi, Zaporizhia, Zhytomyr, Odessa, Chernivtsi, Kherson, Vinnytsia, Kramatorsk, and Bakhmut.

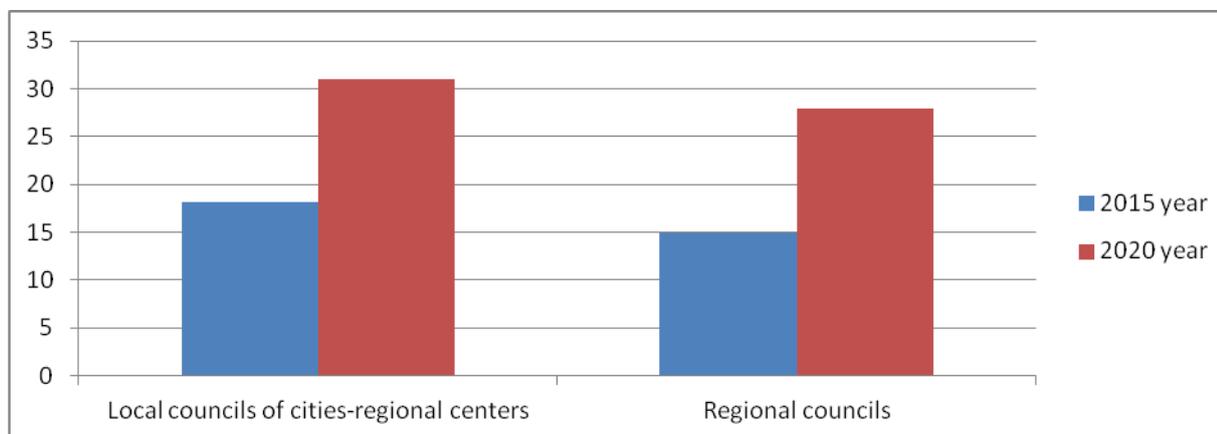
It was found that only in 28 lists out of 219 (13%) parties nominated women as "leaders" of unified lists. However, such representation of women on the voter lists does not necessarily mean a similar result in the elections, as the first candidates on the electoral lists of political parties receive priority in the counting of votes.

As a result of elections to regional councils, 27.8% of women were elected, and 32.7% of women were elected to city councils [Radio Svoboda, 2020].

We can compare the result of the 2020 local elections with the results of the previous 2015 elections. For comparison, let's take the result of the expression of will in the cities-regional centers. The level of women's representation in the city councils of the above-mentioned cities in 2020 increased compared to the previous elections from 18.1% to 31%.

Illustration 3.

Percentage of women deputies in local and regional councils of Ukraine



Source: created by the authors based on .[*Komitet vybortsiv Ukrainy, 2015; Radio Svoboda, 2020*].

Among the newly elected deputies of regional councils in 2020, the level of women's representation was 27.9%, in the previous elections women received 15% of seats. If we analyze the results of the elections to the city councils of regional centers, and compare them with the previous ones, we can see that there is an increase in the number of women deputies compared to the previous local elections. On average, there was a 1.8-fold increase in the number of women deputies. An increase in the number of female deputies can be traced in all regional centers without exception, especially significant progress in cities where women were the least represented before.

For example, in the Ivano-Frankivsk City Council, women's representation increased from 9.5% to 28.6%, and in Kirovohrad from 9.5% to 31%. This situation demonstrates the effectiveness of the mandatory quotas regulated by the Electoral Code.

Conclusions. Gender quotas have a broad legal framework based on international conventions, declarations and national legislation. Legislative candidate quotas and voluntary party quotas apply in European countries. Legislative quotas are often set at 30-40% for each gender.

The experience of the Nordic countries shows that, if gender equality is achieved in the political sphere, the application of quotas can be stopped, this should not lead to the disappearance of gender parity.

Gender quotas do not have a tangible effect immediately after application, at least several regular elections must take place. It is advisable to apply gender quotas together with other means of ensuring gender equality. Compliance with gender quotas is facilitated by sanctions for non-compliance.

The application of quotas leads to an increase in the number of women in elected bodies, which indirectly affects the strengthening of the state's attention to the "women's" spheres, including social. Ukraine's experience shows that enshrining gender quotas in legislation, even without sanctions for non-compliance, contributes to an increase in elected women deputies.

Thus, quotas are an effective tool in approximating gender parity, but other measures are also desirable to achieve results. Quotas help to achieve equal representation, but a mechanism must continue to ensure that men and women have equal influence in decision-making.

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СУЧАСНА СИСТЕМА МІЖНАРОДНОГО ПРАВА

УДК 341.176(4)

THE COUNCIL OF EUROPE LANGUAGE STANDARDS PROTECTION OF MINORITY LANGUAGES AND THEIR SIGNIFICANCE FOR UKRAINE

СТАНДАРТИ РАДИ ЄВРОПИ ЗАХИСТУ МОВ МЕНШИН ТА ЇХ ЗНАЧЕННЯ ДЛЯ УКРАЇНИ

СТАНДАРТЫ СОВЕТА ЕВРОПЫ ЗАЩИТЫ ЯЗЫКОВ МЕНЬШИНСТВ И ИХ ЗНАЧЕНИЕ ДЛЯ УКРАИНЫ

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***Abstract.** As for most countries of the world, the problem of preservation and protection of regional or minority languages is relevant for modern Ukraine. It should be noted that there are no universal special international legal instruments on this issue. Today, European states under the leadership of the Council of Europe have achieved more significant results in this area. The main purpose of its work on this subject is to preserve and protect regional or minority languages in Europe as an integral part of Europe's cultural heritage. Analysing the legal situation with minority languages in Ukraine and the remarks of the monitoring bodies of the Council of Europe on this issue, we note that there is an urgent need to direct national lawmaking to improve national legislation and eliminate shortcomings and inconsistencies with European international legal standards in this area. The article examines the issues of cooperation between Ukraine and the Council of Europe on the protection and promotion of historical regional or minority languages, which contributes to the development of cultural wealth and traditions of Europe. The author examines the purpose of the adoption of the European Charter for Regional or Minority Languages, its main provisions, and the particularities of the object of application. The reform of the monitoring mechanism of the Charter dated July 1, 2019 is analyzed. Special attention is paid to the application by Ukraine of the European Charter for Regional or Minority Languages and the problematic issues of its implementation.*

Key words: *The Council of Europe, Ukraine, regional or minority languages, language rights, language standards, multinational and multilingual population.*

Анотація. Як і для більшості країн світу, проблема захисту і збереження регіональних мов або мов меншин актуальна і для сучасної України. Необхідно зазначити, що універсальні спеціальні міжнародно-правові документи з цього питання відсутні. Більші суттєвих результатів у цій царині досягли сьогодні європейські держави під егідою Ради Європи. Головна мета її діяльності з цієї проблеми полягає у збереженні й захисті регіональних мов або мов меншин в Європі як невід'ємної складової європейської культурної спадщини. Аналізуючи правове становище стосовно збереження і захисту мов меншин в Україні і зауваження моніторингових органів Ради Європи з цього питання відзначаємо, що існує нагальна необхідність спрямувати національну правотворчість на вдосконалення національного законодавства й усунення недоліків та невідповідностей щодо європейських міжнародно-правових стандартів у цій царині. У статті розглядаються питання співпраці між Україною та Радою Європи щодо захисту та популяризації історичних регіональних мов чи мов меншин, що сприяє розвитку культурних багатств та традицій Європи. Автор розглядає мету ухвалення Європейської хартії регіональних мов або мов меншин, її основні положення та особливості об'єкта застосування. Проаналізовано реформу механізму моніторингу Хартії від 1 липня 2019 року. Особлива увага приділяється застосуванню Україною Європейської хартії регіональних мов або мов меншин та проблемним питанням її імплементації.

Ключові слова: *Рада Європи, Україна, регіональні мови або мови меншин, мовні права, мовні стандарти, багатонаціональне та багатомовне населення.*

Аннотация. Как и для большинства стран мира, проблема сохранения и защиты региональных языков или языков меньшинств актуальна и для современной Украины. Необходимо отметить, что универсальные специальные международно-правовые документы по этому вопросу отсутствуют. Более существенных результатов в этой области сегодня достигли Европейские государства под эгидой Совета Европы. Основная цель деятельности этой международной организации в данной сфере заключается в сохранении и защите региональных языков или языков меньшинств в Европе как неотъемлемой составляющей европейского культурного наследия. Анализируя правовое положение языковых меньшинств в Украине и замечания мониторинговых органов Совета Европы по этому вопросу отмечаем, что существует настоятельная необходимость направить национальное правотворчество на совершенствование украинского законодательства и устранения недостатков и несоответствий относительно европейских международно-правовых стандартов. В статье рассматриваются вопросы сотрудничества Украины и Совета Европы в защите и популяризации исторических региональных языков или языков меньшинств, что способствует развитию культурного богатства и традиций Европы. Автор рассматривает цель принятия Европейской хартии региональных языков или языков меньшинств, ее основные положения и особенности объекта применения. Проанализирована реформа механизма мониторинга Хартии от 1 июля 2019 года. Особое внимание уделяется применению Украиной Европейской хартии региональных языков или языков меньшинств и проблемным вопросам ее имплементации.

Ключевые слова: *Совет Европы, Украина, региональные языки или языки меньшинств, языковые права, языковые стандарты, многонациональное и многоязычное население.*

Introduction. In accordance with art. 15 of the European Charter for Regional or Minority Languages, its Parties (25 countries) shall submit to the Secretary General of the Council of Europe periodically reports on their policies pursuant to Part II of this Charter (objectives and principles) and on the measures to promote the use of regional or minority languages of Part III (education,

judicial authorities, administrative bodies and government services, mass media, economic and social life, etc.), which they undertake to apply. The main goal of it is to maintain and to develop the Europe's cultural traditions and heritage, and on the other, to respect an inalienable and commonly recognised right to use a regional or minority language in private and public life. Ukraine as a state party participates in this process also. The monitoring bodies of the Council of Europe create the conditions to monitor the implementation and facilitate the fulfilment of the obligations of the Parties. Enforcement of the Charter is under control of a Committee of experts which examines reports presented by the Parties. The analysis and recommendations of this body are the basis for the necessary Recommendations by the Committee of Ministers to the Parties. This is the purpose of the Recommendations of the Committee of Ministers of the Council of Europe on the application of the European Charter for Regional or Minority Languages by Ukraine.

The purpose of research. The purpose of this article is to analyze the application by Ukraine of the European Charter for Regional or Minority Languages and the problematic issues of its implementation.

Recent literature review. In recent years, Ukrainian scientists have been paying significant attention to the functioning of the Ukrainian language as a state language, the linguistic rights of national minorities, the situation with national minorities in Ukraine in general. However, with rare exceptions, attention is paid to the analysis of the problem of the formation of European language standards for the linguistic minorities and their importance for Ukraine. The latest publications on the proposed topic include research problems of Implementation of the European Charter for Regional or Minority Languages by Ukraine [Tatiana Kovalova, 2018]. V. Mitsik studies the European system of protection of the rights of linguistic minorities [V. Mitsik, 2020].

Research results. The Council of Europe was established on 5 May 1949. According to the Statute, the aim of its activities is "to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress" (Statute, art. 1). The main task of the Council of Europe is to coordinate the laws of the member states to ensure the rules of liberal democracy, which are set out in the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950. In addition to traditional civil and political human rights, the Council of Europe has a mandate to promote the preservation and protection of the right to use regional or minority languages.

The Council of Europe (CoE) consists of 47 states. Ukraine became a member of the Council of Europe on 9 November 1995. According to the Charter of the Council of Europe, the country is represented in all three main bodies of the Organisation: the Committee of Ministers, the Parliamentary Assembly and the Congress of Local and Regional Authorities.

One of the main fields of Ukraine's cooperation with the Council of Europe today is the implementation of national legislation in accordance with its standards based on the principles of the rule of law and the whole spectrum of human rights protection. Ukraine, as a full member of this largest European intergovernmental organisation, plays an important role in its activities. In turn, the Council of Europe in numerous decisions of its main bodies - the Committee of Ministers, the Parliamentary Assembly of the Council of Europe, the European Court of Human Rights, as well as in the relevant conclusions of the Venice Commission consistently upholds territorial integrity, sovereignty and independence of Ukraine and provides practical assistance in the process of implementing democratic reforms. This is stated in numerous Decisions of the Council of Europe in support of the territorial integrity and independence of Ukraine. And, for example, in the recent announcement that the European Court of Human Rights partially accepts Ukraine's complaint against Russia on human rights violations in Crimea of 14 January 2021

One of the most important aspects of Ukraine's cooperation, which is home to about 120 nationalities, with the Council of Europe is the protection and promotion of regional or minority languages.

What is the significance of the European Charter for Regional or Minority languages for Ukraine?

This topic is actually relevant, due to many factors. Firstly, today the problem of protection of regional or minority languages is relevant both for Ukraine and for most countries in the world, which due to various objective factors formed a multinational and multilingual population. Scientists estimate that there are more than 6,000 "living languages" in the world today, but experts believe that if no active action is taken, half of them will have disappeared by the end of this century.

During the history of mankind, more than 9,000 languages became "dead", with about 250 of which disappeared in the last 70 years. Even the languages of the once powerful states have disappeared, for example, ancient Greek, Aramaic, Latin, Sanskrit, Assyrian, ancient Russian, ancient Persian. According to UNESCO, the languages that have recently disappeared include: Manks (residents of the Isle of Man), which disappeared in 1974, Asa (Aasá) in Tanzania - disappeared in 1976, Ubykh (Turkey) - disappeared in 1992, Eyak (Alaska, USA) - disappeared in 2008 and many others.

According to the experts, a language can exist and develop successfully if at least 1 million people speak it. There are no more than 250 of them in the world. Since less than 100,000 people, each speak 90% of today's languages, the prospect of their survival is considered problematic. The Atlas of the World's Languages in Danger, which has been published periodically by UNESCO since 2001, states that 50 European languages are, inter alia, on the verge of extinction. Due to the level of threat to their viability, languages in the Atlas are divided into five categories, according to which languages can be in a state: instability, danger, serious danger, critical situation and complete disappearance [Moseley, Christopher (ed.), 2010].

Secondly, with regard to modern Ukraine, the problem of language rights is one of the most pressing and is hotly debated among experts, politicians, lawyers as well as among all segments of the population. According to the State Statistics Service of Ukraine as of 1 January 2021, the current population of Ukraine, excluding the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol, was 41.6 million [Population, 2021], of which almost 9 million were of other than Ukrainian nationalities. For reference, the population of countries such as Hungary, the Czech Republic or Sweden is about 10 million people each. The largest ethnic groups in Ukraine numbering more than 100,000 are: Russians, Belarusians, Moldovans, Crimean Tatars, Bulgarians, Hungarians, Romanians, Poles, Jews. According to the latest All-Ukrainian census, unfortunately, in 2001, representatives of 120 nationalities lived in Ukraine. This situation has historically led to multilingualism in the country, which requires clear legal settlement.

Legislation of Ukraine on languages consists of the provisions of the Constitution of Ukraine of 1996 [Constitution, art. 10, 11, 22, 53, 119], the Declaration of the Rights of Nationalities of Ukraine of 1991, Laws of Ukraine "On National Minorities in Ukraine" of 1992, "On Ensuring the Functioning of the Ukrainian Language as the State Language" of 2019, "On Ratification of the European Charter for Regional or Minority Languages" of 2003, "On Ratification of the Council of Europe Framework Convention on National Minorities" of 1997, and other sectoral laws of Ukraine related to language issues as well as the following international agreements: the Framework Convention for the Protection of National Minorities of 1995 and the European Charter for Regional or Minority Languages of 1992, which have, after ratification, become part of national legislation in accordance with the Constitution of Ukraine.

For the first time the European Charter for Regional or Minority Languages (ECRML) was ratified by the Law of Ukraine No. 1350-XIV of 24 December 1999 "On Ratification of the European Charter for Regional or Minority Languages, 1992" with many reservations. The Law expired due to its recognition as unconstitutional in accordance with the decision of the

Constitutional Court of Ukraine No. 9-рп /2000 of 12 July 2000. The Law of Ukraine No. 802-IV of 15 May 2003 "On Ratification of the European Charter for Regional or Minority Languages" entered into force on 1 January 2006 ratified the Charter for the second time. In the Ukrainian context, it is the languages of national minorities, which have been erroneously defined, not regional or minority languages under the Charter. Paragraph 2 of the Law emphasises that "the provisions of the Charter apply to the languages of the following national minorities of Ukraine: Belarusian, Bulgarian, Gagauz, Greek, Jewish, Crimean Tatar, Moldavian, German, Polish, Russian, Romanian, Slovak and Hungarian" [Law of Ukraine, 2003].

Particular attention is drawn to the heated disputes and often incompetent or erroneous opinions that appear daily in the media (newspapers, television, Internet, etc.) focused on the lately adopted in this area Law of Ukraine No. 2704-VIII of 25 April 2019 "On Ensuring the Functioning of the Ukrainian Language as the State Language". Experts and the public are particularly concerned about whether such a law is needed, whether the law is in line with Ukraine's international obligations, and whether this law addresses national language interests.

The answer to the first question is positive, because until recently the Law of Ukraine "On the Principles of State Language Policy" of 7 July 2012 remained in force (expired on 28 February 2018). The Law was primarily based on political preferences to protect the Russian language, rather than equal protection of all existing minority languages in the state. Numerous articles devoted to the Russian language only prove this. Despite the fact that the Russian language has been thoroughly protected and has had legal and de facto priority over the languages of other minorities, Russia, some Russian-speaking citizens and politicians have turned the "language war" into an armed war: the slogan "protection of the Russian-speaking population" is used by Russia as a pretext and justification for the occupation of certain territories in Eastern Ukraine and Crimea.

The Law of Ukraine "On Ensuring the Functioning of the Ukrainian Language as the State Language" is positive and meaningful. However, changes in the country and international obligations require additional new approaches to the problem and immediate settlement of the language issue in Ukraine, not only the official language.

For example, the issue of providing secondary education in the relevant minority languages is problematic in the current legislation. We should note that the Law of Ukraine "On Ratification of the European Charter for Regional or Minority Languages" establishes in Article 4 (a) the obligation that the following paragraphs and sub-paragraphs of Articles 8 to 14 of Part III of the Charter, in particular sub-paragraph "b (iv)", shall apply to each language to which the provisions of the Charter apply in accordance with Article 2 of this Law Article 8 "Education". Under Article 8 (b) (iv) of the ECRML, Ukraine has undertaken to provide, in particular, a quotation for possible analysis by the reader goes as follows: "1. With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State: (c) (i) to make available secondary education in the relevant regional or minority languages; or (ii) to make available a substantial part of secondary education in the relevant regional or minority languages; or (iii) to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or (iv) to apply one of the measures provided for under (i) to (iii) above, at least to those pupils who, or where appropriate, whose families, so wish in a number considered sufficient".

However, if we compare this international obligation with the content of Article 7 "Language of Education" of the Law of Ukraine "On Education" of 2017, paragraph 1 thereof provides for, in particular, that persons belonging to national minorities of Ukraine are guaranteed the right to study in communal educational institutions for pre-school and primary education, along with the state language, in the language of their national minorities. Persons belonging to indigenous peoples, national minorities of Ukraine, are guaranteed the right to learn their languages in communal institutions of general secondary education or through national cultural societies.

The obvious significant difference between the ECRML obligations is to provide some opportunity for secondary education and provide for the teaching of relevant minority languages

within the secondary education system as part of the curriculum and the provision of the said law of Ukraine, which guarantees the right to learn the language of the respective national minority in communal institutions of general secondary education.

The foreign ministers of Hungary, Bulgaria, Romania and Greece in their letter to their Ukrainian counterpart Pavel Klimkin expressed their concern under the new Law of Ukraine on Education. Hungary has appealed to the United Nations to consider the Law on Education passed by Ukraine, arguing that the law violates the right of national minorities to use their language. Ukraine has its own arguments in accordance with the mandatory requirement to get education in the state language. According to the official statistics of the Ukrainian Centre for Educational Quality Assessment, in 2016 more than 36% of graduates of the Zakarpattia region passed an external independent test in the Ukrainian language with a score of 1 to 3 on a scale of 12 points. These results mean that a third of graduates do not have the opportunity to apply to higher education institutions, as the successful completion of the Independent External Evaluation in the Ukrainian language is a mandatory requirement for admission to higher education [Tatiana Kovalova, 2018:41].

It is an indisputable fact that the language issue has become the object of political bargaining, especially during the election campaign, becoming a means of manipulation. The vast majority of people unfamiliar with the provisions of the Charter easily believe in the promises of the "fathers of politics", who can not but know the essence of the document, however, deliberately use the situation distorting its basic provisions.

The main purpose and provisions of the ECRML

First of all, it is important to define the main goal of the ECRML. The Preamble and the Explanatory Report to the Charter state that the Charter is aimed at protecting regional or minority languages and promoting their development. However, this provision does not apply to linguistic minorities, especially national minorities. The Charter does not establish any individual or collective rights for national minorities. These terms are not used in the Charter. The Parties carry out their policies, legislative and practical activities in relation to regional or minority languages, in the territories where such languages are used [V. Mitsik, 2020]. The main purpose of the Charter is cultural development. "The Charter is designed to protect and promote regional or minority languages as a threatened aspect of Europe's cultural heritage. For this reason, it not only contains a non-discrimination clause concerning the use of these languages but also provides for measures offering active support for them. The aim of the Charter is also, as far as reasonably possible, the use of regional or minority languages in education and the media and to permit their use in judicial and administrative settings, economic and social life and in cultural activities. Only in this way can such languages be compensated, where necessary, for unfavourable conditions in the past and be preserved and developed as a living facet of Europe's cultural identity". The specific scope of the document is worth mentioning: "The Charter is designed to protect and promote regional or minority languages as a threatened aspect of Europe's cultural heritage", "The aim of the Charter is also, as far as reasonably possible, the use of regional or minority languages...", "in this way can such languages be compensated, where necessary, for unfavourable conditions in the past and be preserved and developed as a living facet of Europe's cultural identity"[Explanatory Report, par. 10].

This is how most States Parties perceive these provisions. In Norway, for example, the Sami language (four variations) and the Kven language (which is indeed in critical condition) are recognised as such languages. Sami, Finnish, Meyankieli (Tornedal Finnish) are the recognised minority languages in Sweden; Welsh, Scottish Gaelic, Irish - in Great Britain. However, given the provisions of par. 21 of the Explanatory Report, which emphasises that the Charter does not specify which European languages correspond to the concept of "regional or minority languages", the list of regional or minority languages remains largely the discretion of each Party. There are countries that pay attention to languages that are in critical condition, as well as recognise the languages of

neighbouring countries, which obviously are not threatened with extinction, at least in the near future.

For example, Poland has recognised Karaite, Lem, Kashubian, Yiddish, Hebrew, Tatar, Armenian, as well as German, Ukrainian, Belarusian, Czech, Romanian, Lithuanian, Slovak, and Russian as minority languages. However, the only official language of Poland, according to the Constitution, is Polish (Chapter I, Article 27). Croatia has recognised: Italian, Serbian, Hungarian, Czech, Slovak, Ruthenian and Ukrainian. The Czech Republic declared, in conformity with the Charter, that it regarded Slovak, Polish, German and Romani as the minority languages. The Slovak Republic declared, in conformity with the Charter, that the "regional or minority languages" are: Bulgarian, Croatian, Czech, German, Hungarian, Polish, Romany, Ruthenian and Ukrainian. Interestingly, the Committee of Experts of the Charter and the Committee of Ministers of the Council of Europe do not object, rather encourage such a widespread approach to the recognition of minority languages, which are not in a critical state but are traditionally spoken in the country.

The issue is resolved in Ukraine in the same way. However, in the Law of Ukraine "On Ratification of the European Charter for Regional or Minority Languages" the provisions of the Charter apply to the languages of the following 13 national minorities (not minority languages as stated in the Charter) of Ukraine: Belarusian, Bulgarian, Gagauz, Greek, probably Yiddish), Crimean Tatar, Moldavian, German, Polish, Russian, Romanian, Slovak and Hungarian. It is obvious that among the 13 mentioned languages in Ukraine, three minority languages are really endangered for the cultural heritage of Europe - Ruthenian, Karaite and Crimean. It is interesting to note that according to the provisions of Article 1 of the Charter, Romani and Yiddish refer to "non-territorial languages", "which, although traditionally used within the territory of the State, cannot be identified with a particular area thereof". This is how these languages are defined in most European countries.

Another document of the Council of Europe is devoted to the rights of minorities - the Framework Convention for the Protection of National Minorities, which is often referred to together with the European Charter. These documents are actually interrelated and complementary. However, the former regulates language issues concerning national minorities. For example, paragraph 1, Article 10 of the Framework Convention emphasises that "The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing". However, paragraph 2 thereof stipulates that "In areas inhabited by persons belonging to national minorities traditionally or substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities"[Framework Convention, 1975].

The Convention, as we have determined, regulates the issues of linguistic minorities ("use of the language of the relevant minority"), not national ones, to which a group of persons of different nationalities may belong, but its number is smaller than the population of such an area, which uses the language of the majority.

What is the difference between "regional" and "minority" languages?

For the purposes of the Charter, Article 1 thereof defines the term "regional or minority languages" as "languages that are: (i) traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State's population; and (ii) different from the official language(s) of that State; it does not include either dialects of the official language(s) of the State or the languages of migrants".

It should be noted that the Charter does not have separate definitions of "regional language" and "minority language", which rises ongoing discussions and authors suggestions for the interpretation of the phrase "regional or minority languages" with regard to the content of the document. The authors of the Charter, in our opinion, predicted such a situation and laid down their position in the section "Terminology used" of the Explanatory Report. The adjective "regional"

denotes languages spoken in a limited part of the country, where they may also be spoken by the majority of citizens.

The term "minority" refers to situations in which either the language is spoken by persons who are not concentrated on a specific part of the territory of a State, or it is spoken by a group of persons, which, though concentrated on part of the territory of the State, is numerically smaller than the population of this region. Therefore, both adjectives refer to factual criteria and not to legal notions and in any case relate to the situation in a given State (for instance, a minority language in one State may be a majority language in another State).

It is clear that the Charter is primarily aimed at protecting regional languages. In practice, States Parties most often recognise and protect minority languages in their declarations and periodical national reports, and only occasionally recognise regional languages.

Monitoring mechanism under the Charter and its reform of 1 July 2019

(The reform of the monitoring mechanism of the European Charter for Regional or Minority Languages, adopted on 28 November 2018 by the Ministers' Deputies, with a view to strengthening it, entered into force on 1 July 2019).

The issues of monitoring mechanism functioning within the framework of the Charter are regulated by Article 16 "Examination of reports" and Article 17 "Committee of experts". It can be briefly explained as follows. State Reports containing information on the implementation of the ECRML obligations shall be submitted to the Secretary General of the Council of Europe in accordance with Article 15 and shall be considered by the Committee of Experts established under Article 17. The Committee of Experts shall be composed of one member per Party. The members of the Committee shall be appointed by the Committee of Ministers from a list of individuals of high integrity and recognised competence in the matters dealt with in the Charter, who shall be nominated by the Party concerned. Members of the Committee shall be appointed for a period of 6 years and shall be eligible for reappointed.

On the basis of these reports and the information received by the Committee of Experts, the Committee shall prepare a report for the Committee of Ministers. This Report shall, inter alia, contain the proposals of the Committee of Experts to the Committee of Ministers for the preparation of the necessary recommendations to one or more of the Parties. The Committee of Ministers shall, by unanimous vote, adopt such recommendations as binding upon the Parties. The Secretary General of the Council of Europe shall submit to the Parliamentary Assembly a detailed biennial report on the application of the Charter. The effectiveness of the Committee of Experts largely depends on the fact that its reports on the implementation of each article and paragraph of the European Charter by each State Party become public to other Parties to the Charter, and especially to representatives and users of their linguistic minorities whose rights are protected.

The reform of the ECRML monitoring mechanism is due to the fact, that it is a living organism that must respond to the changes that have taken place during 27 years of its existence. It consists of the following measures:

- to adjust the monitoring cycle of the Charter by extending the report cycle to five years instead of the current three years and introducing mid-term state performance reports, thereby allowing States Parties to spend more time implementing and reporting on the Charter and bringing the cycles under the Charter and Framework Convention closer together, enhancing efficiency of their implementation, whilst following up on the recommendations for immediate action from the previous evaluation report on the assessment of the situation with their implementation in each five-year cycle;
- to allow the Committee of Experts to prepare and submit its report (report on the evaluation of the situation with the implementation of the Charter by the Party) and carry out on-the-spot visits to the country by the Committee of Ministers without receiving a subsequent periodical, cyclical report (some countries delay their reports for several months to several years), violating the reporting

obligations of the states, disorganising the monitoring activities of the Committee of Experts and the Committee of Ministers of the Council of Europe;

- to enhance the accuracy of the CoE's evaluation reports through a dialogue with the State Party within a strict timeframe so as not to hinder the relevance (for a subsequent period of 5 years) of evaluation reports by the Committee of Experts by delaying their publication; States to fulfil their obligations to allow the publication of the Evaluation Report of the Committee of Experts as soon as the State Party receives final comments on it, and not after the Committee of Ministers recommendations, which are delayed by CoE member states for some political reasons (For example, for almost three years, Russia and Hungary did not agree on the adoption of positive recommendations of the Council of Ministers of the Council of Europe on the implementation of obligations under the Charter of Ukraine. Such a change makes it possible to disseminate the conclusions of the Committee of Experts more quickly and to strengthen their expert analysis, followed by the Political Recommendations of the Committee of Ministers of the Council of Europe);

- to increase member turnover in the Committee of Experts by setting a limit to the number of times a member can be appointed, in line with other monitoring bodies of the Council of Europe (it means no more than two consecutive terms) [Strengthening the monitoring mechanism, 2019].

Each of these reforming measures has numerous benefits for the application of the ECRML. The reform of this system should make the ECRML more transparent, more open to the public and especially to groups interested in the existence of regional or minority languages protected by the Charter.

Similarly, allowing the Committee of Experts to begin its evaluation without a subsequent periodical report by the State provides for fewer violations in the Charter's monitoring cycles. Moreover, no country will delay several years with the subsequent report after the new five-year cycle, which in itself will allow more time for states to implement domestic policies to protect regional or minority languages and to report on any new policies in this area.

It should also promote cooperation within the CoE through bringing the Charter and the Framework Convention closer together which, in turn, provides a detailed picture of minority languages and the language rights of national minorities in Europe every five years. This proposal will also make periodical reporting more practical for States Parties to both the Charter and the Framework Convention.

Conclusions

For more than 70 years of its existence, the Council of Europe has become a recognised leader in the formation and development of ideas and principles of democracy, the rule of law and human rights. It is well known that today the CoE remains the main source of standards for European countries in the area of fundamental human rights and freedoms. Standards that are enshrined primarily in its legally binding conventions, not only in political declarations or decisions, are therefore binding upon the authorities of countries that have ratified them.

States becoming members of this international organisation must recognise the following three basic principles: the principle of the rule of law, the principle of democratic pluralism and the principle of protection of human rights and fundamental freedoms. To meet these conditions, states need to ratify at least fundamental international legal instruments adopted within the Council of Europe, including the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities. These unique in international law European conventions provide for protection of the regional or minority languages and the language rights of persons belonging to national minorities at the European regional level.

Ukraine ratified the ECRML on 15 May 2003 and the FCNM on 9 December 1997. Ukraine is consistently improving its national regulatory framework to regulate the protection of regional or minority languages and to bring national legislation into line with its international obligations in this area. However, today in Ukraine there are issues in this area that require an effective and urgent solution.

An important basis for resolving these issues is certainly the activities of the Council of Europe in addressing protection of regional or minority languages to strengthen democracy, justice and stability as well as peace in Europe, the development of international cooperation in this important field of human rights.

This is the purpose of the Recommendations of the Committee of Ministers of the Council of Europe to States Parties on the application of the European Charter for Regional or Minority Languages by Ukraine. With regard to the legislative framework applicable before the adoption of the new Law on Education evaluated in the third periodical report it is recommended that Ukraine should take into account all the observations and recommendations of the Committee of Experts and, as a priority:

1. adopt, for each language, a structured approach to the implementation of the undertakings under the Charter in co-operation with the respective speakers;
2. develop and implement, for each Part III language, a comprehensive policy for teaching the languages at all levels of education;
3. extend and strengthen the offer of radio and television broadcasts in the Part III languages;
4. ensure that the Part III languages can be used in practice in the field of administration;
5. promote the adoption and use of traditional and correct forms of place names in the minority languages;
6. secure long-term financial support for cultural facilities in order to provide stability for cultural activities in minority languages;
7. take resolute action to promote Romani in order to safeguard it [Recommendation CM/RecChL(2018)6].

The issue of lawmaking in this area is relevant and necessary. The civilized society must solve it properly, taking into account international standards, state interests and language needs and rights of the population of Ukraine. These factors must be taken into account when developing and adopting the Law on official language policy, Law on state language as well as the Law on languages in Ukraine.

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CONFLICT OF LAWS ASPECTS OF INTERNATIONAL BONDS TRANSACTIONS

КОЛІЗІЙНІ АСПЕКТИ ПРАВОЧИНІВ З МІЖНАРОДНИМИ ОБЛІГАЦІЯМИ

КОЛЛИЗИОННЫЕ АСПЕКТЫ СДЕЛОК С МЕЖДУНАРОДНЫМИ ОБЛИГАЦИЯМИ

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Abstract. *This article examines conflict of laws issues related to issue and circulation of international bonds at international capital markets. It covers characteristic features of international bonds as financial instruments used for raising capital from sophisticated investors which determine, in particular, peculiarities of solving conflict of laws issues. These issues include determination of the law applicable to the formal and essential validity of an international bond, the rights and liabilities as between the issuer and the holder of the international bonds, legal status of a holder of such bonds, the questions of whether a holder obtains full title from a transferor and how title is to be transferred, and whether the transferee obtains title subject to or free from any defects in title of the transferor. The author specifies possible solutions of this conflict of laws puzzle that may include different competing legal systems. He argues that in common law and some other jurisdictions the fundamental *lex voluntatis* principle may also be applicable to international bonds due to their contractual nature resulting in possibility to choose the governing law for the bonds. The conventional approach as to the proprietary issues of the bonds refers to the *lex situs* of these securities as the governing law for these issues. The conclusions formulated at the end of the article present the author's personal attitude towards legal solution of the problems related to determination of the applicable law for international bonds.*

Key words: *international bonds, conflict of laws, issuer, governing law, lex voluntatis.*

Анотація. *У цій статті досліджуються колізійні питання, що стосуються випуску та обігу міжнародних облігацій на міжнародних ринках капіталу. У ній висвітлюються характерні ознаки міжнародних облігацій як фінансових інструментів, що використовуються для залучення капіталу від інституційних інвесторів, які визначають, зокрема, особливості вирішення колізійних питань. Ці питання включають визначення права, що застосовується до формальної та матеріальної дійсності міжнародних облігацій, прав та обов'язків, що визначають відносини між емітентом та власником міжнародних облігацій, правового статусу держателя таких облігацій, питань переходу права власності від продавця до набувача, способу передачі права власності та наявності*

будь-яких дефектів титулу власності, що переходять при такій передачі. Автор визначає можливі шляхи вирішення цієї колізійної проблеми, за якої конкуруючими можуть бути декілька правових систем. Він наголошує на тому, що у країнах загального права та деяких інших юрисдикціях основоположний принцип автономії волі сторін може також застосовуватися по відношенню до міжнародних облігацій в силу їх договірної природи, що визначає можливість обрання права, застосовного до облігацій. Традиційний підхід до вирішення колізійного питання відносно речово-правових аспектів обігу облігацій вказує на застосування колізійної прив'язки *lex situs* як права, що застосовуватиметься до таких питань. Висновки, сформульовані наприкінці статті, представляють авторську позицію стосовно розв'язання проблем визначення застосовного права відносно міжнародних облігацій.

Ключові слова: міжнародні облігації, колізійне право, емітент, застосовне право, принцип автономії волі.

Анотація. В данній статтє исследуются коллизионные вопросы, касающиеся выпуска и обращения международных облигаций на международных рынках капитала. В ней выделяются характерные признаки международных облигаций как финансовых инструментов, использующихся для привлечения капитала от институциональных инвесторов, которые определяют, в частности, особенности разрешения коллизионных вопросов. Эти вопросы включают определение права, применимого к формальной и материальной действительности международных облигаций, правам и обязанностям, определяющим отношения эмитента и владельца международных облигаций, правовому статусу держателя таких облигаций, вопросам перехода права собственности от продавца к покупателю, способу передачи права собственности и наличию каких-либо дефектов титула собственности, которые переходят при такой передаче. Автор определяет возможные пути разрешения этой коллизионной проблемы, в условиях которой конкурирующими могут быть несколько правовых систем. Он подчеркивает, что в странах общего права и некоторых других юрисдикциях основополагающий принцип автономии воли сторон может также применяться по отношению к международным облигациям в силу их договорной природы, что определяет возможность выбора права, применимого к облигациям. Традиционный подход к разрешению коллизионного вопроса относительно вещно-правовых аспектов обращения облигаций указывает на применение коллизионной привязки *lex situs* как права, применимого к таким вопросам. Выводы, сформулированные в конце статьи, представляют авторскую позицию касательно разрешения проблем определения применимого права в отношении международных облигаций.

Ключевые слова: международные облигации, коллизионное право, эмитент, применимое право, принцип автономии воли.

General statement of problem. Bonds are usually defined as securities issued by the company or sovereign debtor and evidencing the debt, i.e. obligation of the issuer to pay the par value of the bond (the principal amount of debt) and interest stipulated by the terms of issue to the bondholders upon expiry of the specified term or at an earlier redemption date. In essence, bonds are *ipso facto* the loans made by investors to the issuer which are evidenced by debt securities. The purchaser of the bonds becomes a creditor of the issuer of the bonds, since the investor will have a right to get repayment of the principal amount of the bond which it has paid to purchase the bond. The investor obtains a return on its investment in the form of interest on the bond either at a fixed rate or at a floating rate, or by way of a discount on the face value of the bond. Each bondholder is deemed to have a separate contract with the issuer.

Bond as a financial instrument possesses the following legal characteristics:

- It is a debt instrument which seeks to enable the holder to possess direct legal rights as against the issuer;
- It contains the promise of the issuer that the par value of the bond will be paid to the holder on a specified maturity date or, in certain circumstances, at an earlier redemption date;
- It also contains a promise that the issuer will pay interest to the holder of the bond on the principal amount until final maturity or earlier redemption, at a fixed or floating rate of interest.

International bonds (often called Eurobonds, so we shall further use both terms as synonyms) are customarily issued as bearer instruments which seek to enable the holder to possess direct legal rights as against the issuer; they are transferable by delivery (without any other formal acts) and are negotiable instruments. Negotiability means that title to and property in the instrument and all rights under it shall pass to a *bona fide* holder for value by physical delivery. A *bona fide* transferee acquires a good title free of any defects available against the claims of any transferor or holder. Such negotiability is important in relation to sales of Eurobonds in the secondary markets. Being a bearer security, a Eurobond can be more easily transferred in a cross-border dimension.

The issue of international bonds is one of the most important mechanisms for raising long-term finance in the international capital markets. It is commonly used by sovereign states, state corporations, municipal authorities, transactional corporations and banks as an alternative to borrowing from a syndicate of banks by means of a conventional international syndicated loan. Eurobonds present a method of direct investment ensuring for the issuer the accumulation of significant capital by attracting long-term foreign investment [Shutova, 2002: 39]. International bonds constitute a major financing vehicle for international finance. Within the framework of their issue a borrowing entity (the issuer) which needs to raise long-term capital issues a number of debt securities, the value of which in the aggregate equals total amount of finance required by the issuer of the bonds.

As a matter of practice, international bonds are bearer negotiable instruments where the issuer and investors belong to different jurisdictions and normally are held by institutional investors [Wood, 2007: 193-194]. They are issued by an issuer at the international capital market outside the home jurisdiction of the issuer which is not resident in the country of the place of issue of the bonds. They are purchased by investors from different jurisdictions outside the jurisdiction of the issuer. The initial 'target audience' of the international bonds are international investors from different countries across the world. International bonds are usually denominated in the currency which is foreign both for the issuer and (usually) for the country of the place of issue. International bonds are normally directed to qualified or sophisticated investors, so they can be issued without compliance with the national securities regulation for the issues made available to public. Finally, international bonds are typically sold by the syndicates of investment banks having registered offices in different jurisdictions. There are also so-called parallel issues of bonds placed by several tranches simultaneously in several states, and in each jurisdiction the relevant tranche is denominated in its national currency [Popova, 2001: 46]. The formal characteristic of the Eurobonds is the absence of a single national market of their placement and trading [Rich, 1979-1980: 505].

As we can see from this outline of the principal features of these financial instruments, international nature of the Eurobonds, involvement of entities from various jurisdictions within the process of their issue and placement, a variety of other foreign elements related to the issue of and transactions with international bonds inevitably gives rise to conflict of laws issues. It is in the context of such a truly international transactional framework that the question of applicable law frequently arises. The complexity of these issues is underpinned by complex legal nature of bonds as securities and multiplicity of jurisdictions involved in cross-border transactions with such securities. Transactions with Eurobonds are so 'delocalized' that determination of the applicable law concerning each particular issue is connected with significant problems [Delaume, 1972: 241]. In view of the need for integration of Ukraine into international capital markets and protection of

the investors purchasing Eurobonds the solution of the problem of determination of the applicable law to different aspects related to these financial instruments seem very timely and topical issue.

Recent researches and publications. In international scholar community problems related to Eurobonds were highlighted, in particular, by F.G. Fischer [*Fischer*, 1981; *Fischer*, 1988], N. Horn [*Horn*, 1977], M. Issad [*Issad*, 1989], I.M. Kerr [*Kerr*, 1984], T. Prime [*Prime*, 1990], F.C. Rich [*Rich*, 1979-1980], R. Tennekoon [*Tennekoon*, 1991], S. Weber [*Weber*, 1999], Ph. R. Wood [*Wood*, 2007]. In the legal doctrine in post-Soviet states, however, these problems have been only incidentally considered, in particular, by M.V. Popova [*Popova*, 2001], A. Shamraev [*Shamraev*, 2009], E. Shutova [*Shutova*, 2002]. Our present research presents a modest contribution to scientific investigations in this field.

The purpose of this article is to examine conflict of laws issues pertaining to international bonds and possible ways of their solution taking into consideration complex legal nature of these debt instruments, their contractual essence and cross-border dimension of their circulation and trading.

Main research results. The issues which may involve a conflict of laws in respect of the Eurobonds embrace, *inter alia*, the following:

- a) Which law determines the formal and essential validity of a Eurobond?
- b) Which law determines the rights and liabilities as between the issuer and the holder of the Eurobond? In particular, what law determines whether terms in trust deeds and fiscal agency agreement are part of the legal regime regulating the rights and liabilities of the issuer and holder?
- c) Which law determines whether a person is a holder or a *bona fide* holder of the Eurobond?
- d) Which law determines whether a holder obtains full title from a transferor and how title is to be transferred?
- e) Which law determines whether the transferee obtains title subject to or free from any defects in title of the transferor?

Possible solutions of this conflict of laws puzzle may include the following legal systems:

- *lex societatis* (i.e. law of the place of incorporation or law of the seat) of the issuer;
- law of the place of closing of the issue of the Eurobonds (as the *lex loci contractus* of the Eurobonds);
- *lex monetae* referring to the currency of the debt evidenced by a Eurobond;
- law of the place of performance (place of payment) under the Eurobonds (as their *lex loci solutionis*) etc.

There are no international conventions that would govern the conflict of laws issues of the Eurobonds. In fact, the international regulation of these instruments is effected with the use of recommendations and rules developed by international associations and other institutions. These recommendations have the status of transnational law [*Horn*, 1977: 753]. At the doctrinal level there is no uniform approach towards determination of the applicable laws in relation to Eurobonds. It is suggested that various aspects related to Eurobonds should be governed by different legal systems. For instance, it is suggested that terms and conditions of the issue of Eurobonds should be governed by the national laws of the state of location of the issuer, while terms and conditions of their circulation should be determined by the rules of a particular stock market [*Tosunian*, 2002: 724].

In the common law and some other jurisdictions bonds are viewed as the securities having contractual nature and belonging to the negotiable instruments. A bond is seen as a kind of loan agreement in which the issuer plays the role of the borrower, and the bondholders are the creditors of the issuer for the offering price of the bonds. Since a bond is a contract *sui generis* binding and enforceable as between the issuer and the investor, then the fundamental *lex voluntatis* principle may well be applicable resulting in possibility to choose the governing law for the bonds. In fact, at least in the English-based jurisdictions nothing prevents the parties from choosing the proper law (usually expressed on the face of the instrument or in the choice of law clause in the terms of issue contained in the prospectus) to govern at least the contractual elements of a bond instrument. This

would mean that at least issues (a) and (b) listed above may be governed by reference to a single chosen system of law.

An express choice of the English law (which choice is very often the case for the Eurobonds issue) is normally recognized and upheld by the English courts as governing at least the contractual aspects of the bonds, even though England is not the *lex loci contractus* of the bonds (for example, in the case of an issue of Eurobonds nominated in Euro and effected in Paris subject to an English proper law clause).

This approach is also supported in the legal doctrine; it is suggested that in case of the bonds the law governing loan will be applicable, in other words, the party autonomy principle shall apply [Issad, 1989: 169]. It was also submitted that since terms and conditions of the bonds constitute a contract between the issuer and the investor (bondholder), then the principles of determination of *lex causae* of a contract shall apply to a bond [Weber, 1999: 30]. It was concluded that this approach fully corresponds with the party autonomy doctrine applicable to commercial contracts [Tennekoon, 1991: 168-169]. Some scholars raise an issue of the need for elaboration of the doctrine of a formal contract attested by a security [Murzin, 1998: 43]. The elimination of the issues related to negotiable instruments from the scope of application of international instruments containing conflict of laws rules applicable to contracts, such as the Rome Convention 1980 on the Law Applicable to Contractual Obligations [1] and Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) [2], does not mean that conflict of laws principles applicable to contracts cannot be employed for international bonds. It was suggested that the Rome Convention 1980 excludes from its scope only contracts related to issue of a negotiable instrument, and not the underlying contracts or contracts on their transfer [Kaye, 1993: 116].

Such a choice would enable predictability and certainty in respect of legal rights and liabilities of the issuer and the bondholder arising out of these instruments at the time of their issue. This is extremely important in practice, since many concepts, notions, terminology and legal techniques used in the Eurobonds market (including no-action clause, negative pledge clause, *pari passu* clause, cross-default clause, bondholders' trust etc.) are predominantly of the English law origin. Therefore, incidental application by the competent court of the legal system which ignores such concepts and notions and their further re-characterization for the purposes to adapt these notions to the reality of the continental legal system (which is often the case in respect of trust, for example) may lead to disastrous effect for all the parties to the Eurobonds transactions. Consequently, traditional choice of the English law reflects not only the intention of the issuer to ensure applicability of this system of law to the Eurobonds, but rather its wish to insulate legal relations arising in respect of the Eurobonds from application of any 'unacceptable' and 'extraneous' system of law which may inevitably cause re-characterization risk. However, it should be borne in mind that choice of the English law may not be seen as a cure-all solution, since the competent court of a foreign jurisdiction may tend to apply indigenous *lex fori* in order to protect the interests of its nationals being the investors in the Eurobonds or in view of the public policy considerations, and this disregard of the chosen law represents a major legal risk for the issuer.

This approach leaves open the question as to which law governs the proprietary aspects of the Eurobonds, i.e. items (c) to (e) from the list above, which includes the essence of negotiability of the bond instruments. The conventional approach as to the proprietary issues of the securities refers to the *lex situs* of the securities as the governing law for these issues. Since the Eurobonds belong to negotiable instruments, then the place of delivery of these instruments should determine the choice of law for the proprietary issues. However, it is submitted that this conflict of laws principle is very difficult to apply to such securities in reality.

Nowadays the Eurobonds are usually issued in a non-documentary form; even if the definitive Eurobonds were issued, they are warehoused with a depository for the clearance system. Within the multi-tiered securities holding system the clearance system holds the bonds for the account of their respective securities account holders. Where a transfer occurs, it always takes place between one securities account holder of the clearance system and another account holder. Consequently, all

transfers are effected within the electronic book-entry system without any movement of the physical definitive Eurobonds. Thus, 'delivery' of a Eurobond under such circumstances is so 'delocalized' and the place of delivery is so difficult to ascertain that *lex situs* rule brings almost no success in solving this conflict of laws puzzle. The place of delivery may be determined as the country where the bonds are physically warehoused or where the electronic book-entry system is located, and both such locations may have no relation to the actual transaction.

In view of these circumstances, in order to achieve a greater level of predictability and certainty a new approach is needed. Since virtually all Eurobonds contain a choice of law clause which expressly subjects the bond to a specific system of law for the purposes of governing all rights and obligations arising out of the bond, then this express choice of law clause should also govern the negotiability of the bond regardless of the actual place of transfer which may be purely accidental and thus irrelevant for conflict of laws purposes. This express choice of law should govern not only the relationship between the transferor and transferee and successive transferees, but also the rights of a transferee as against the issuer of the Eurobond. Such an approach is not inconsistent with the case law. For instance, in the decisions in *Alcock v. Smith* [3] and *Embiricos v. Anglo-Austrian Bank* [4] related to the bond instruments containing no express choice of law clauses the Court of Appeal applied the law of the place of delivery of the documents for determining the negotiability of the securities.

Such an approach is also extremely desirable from a practical point of view because it creates certainty in a complex financial transaction which involves innumerable parties from a large number of countries with different systems of law. In particular, it would enable the terms and conditions of the bond instrument to be tested for validity by a system of law chosen to govern the matter at the time of the issue of the instrument and by reference to which the terms and conditions may be drafted. Further, such an approach is consistent with the doctrine of party autonomy which sometimes tends to be extended to cover the proprietary issues of a transaction. Finally, in many cases the bank which acts as the depository physically holds the Eurobonds (the global bond) with the chosen English law in London, so the *lex situs* of delivery will coincide with the express choice of law leading to the same result in terms of conflict of laws regulation of proprietary issues of the Eurobonds transactions.

Conclusion. Since a bond is a contract *sui generis* binding and enforceable as between the issuer and the investor, then the fundamental *lex voluntatis* principle may well be applicable resulting in possibility to choose the governing law for the bonds. The law chosen by the issuer will govern the contractual elements of a bond instrument, including the rights and obligations of the issuer and bondholders. Traditional choice of the English law is designed to insulate legal relations arising in respect of the Eurobonds from application of any 'extraneous' system of law which may inevitably cause re-characterization risk. However, in some jurisdictions this choice may be disregarded in favor of *lex fori* of the court considering the case of protection of national investors. The conventional approach as to the proprietary issues of the securities refers to the *lex situs* of the securities as the governing law for these issues. Since the Eurobonds belong to negotiable instruments, then the place of delivery of these instruments should determine the choice of law for the proprietary issues. In case of the international bonds existing in non-documentary form an express choice of law clause should also govern the negotiability of the bond regardless of the actual place of transfer which may be purely accidental and thus irrelevant for conflict of laws purposes.

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ОСОБЛИВОСТІ РОЗВИТКУ СВІТОВОГО ГОСПОДАРСТВА ТА МЕВ

УДК 338.3

ECONOMIC PRODUCTIVITY: FACTOR APPROACHES

ЕКОНОМІЧНА ПРОДУКТИВНІСТЬ: ФАКТОРНІ ПІДХОДИ

ЭКОНОМИЧЕСКАЯ ПРОИЗВОДИТЕЛЬНОСТЬ: ФАКТОРНЫЕ ПОДХОДЫ

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Abstract. *The article focuses on economic productivity and have stressed the theory of marginal utility (productivity). In modern researches such aggregate indicators as a total factor productivity and a multifactor productivity prevail. Total Factor Productivity is measured by combining the effects of all there sources used in the production of goods and services (labour, capital, materials, energy, etc.) and dividing it into the output. Multifactor productivity (MFP) is the ratio of total output to a subset of inputs. A subset of inputs might consist of only labour and materials or it could include capital. MFP is the residual contribution to output growth of an industry or economy after calculating the contribution from all its factor inputs. The OECD methodology examines key single-factor (aggregated) indicators of labour and capital productivity, considering total output and costs and, most importantly, the value added, which reflects the real increase in the welfare of the nation.*

Key words: *economic productivity, marginal utility, multifactor, total factor, output, inputs, capital, labor.*

Анотація. *Стаття присвячена економічній продуктивності та наголошує на граничній корисності. У сучасних дослідженнях продуктивності переважають два головні показники – загальна факторна продуктивність та багатофакторна продуктивність. Загальна факторна продуктивність визначається шляхом вимірювання впливу на економічне зростання капіталу, праці, матеріалів, енергії тощо та їхнє узагальнення у вигляді одного показника. Багатофакторна продуктивність являє собою частку, яка дорівнює співвідношенню випуску та загальних витрат. Показник витрат може включати працю, матеріали і капітал. Методологія ОЕСР досліджує ключові фактори – працю і капітал у*

контексті продуктивності, особливу увагу звертаючи на додану вартість як головний показник зростання добробуту.

Ключові слова: економічна продуктивність, гранична корисність, загальна факторна, багатфакторна, капітал, праця, затрати, випуск, добробут.

Аннотация. *Статья посвящена экономической производительности с ударением на предельной полезности. В современных исследованиях преобладают два главных показателя – общая факторная производительность и многофакторная производительность. Общая факторная производительность определяется путем измерения влияния на экономический рост капитала, труда, материалов, энергии и др. и их обобщение в виде одного показателя. Многофакторная производительность представляет собой частное от соотношения выпуска и затрат. Показатель затрат может включать труд, капитал и материалы. Методология ОЭСР исследует ключевые факторы – труд и капитал в контексте производительности, обращая особое внимание на добавленную стоимость как главный показатель роста благосостояния.*

Ключевые слова: *экономическая производительность, предельная полезность, общая факторная, многофакторная, капитал, труд, затраты, выпуск, благосостояние.*

Current problems.

The common notion of productivity is defined as the ratio of output to resources expended. The productive capacity of the economy, the productive capacity of nations is a much broader, multidimensional process. It reflects the general state of the economy, the efficiency of use of all resources, the nature and level of the institutional environment, the quality of human and social capital and so on. Efficient tool for that investigation is a total and multifactor productivity approaches.

The aim of the article. The fathers of economics paid great attention to the problem of creation and distribution of wealth, welfare of nations, determining the causes, nature, factors influencing these processes. Particular attention was paid to the efficient use of land, labour, capital. Among the main prerequisites for the economic capacity of the nation were the natural and geographical environment, the level of development of material and spiritual culture, the division of labour, international trade and others. At the same time, in particular, A. Smith, stressed that “the greatest improvement in the productive powers of labour, and the greater part of the skill, dexterity, and judgement with which it is any where directed, or applied, seem to have been the effects of the division of labour” (Smith 2001, 11). Smith mainly considered the firm (factory, manufacture) from the point of view of the division of labour (organic and heterogeneous manufacture), as the main factor in productivity growth. J. St. Mill analysed productivity through the prism of property relations and the cooperative nature of the social institution, dividing the productivity of the worker and the manager depending on their ownership of the means of production (Witztum 2012, 342-343). Mill distinguished simple cooperation, when workers carried out joint activities in the process of producing one product (vertical relations), and complex cooperation, when different products are produced for exchange (horizontal relations). The scale, size of the firm, its limits (boundaries) are determined by Mill, the following components: technological conditions, the impact of distribution relations on productivity, the transnational nature of competition and the evolution of human nature (ethology). J.M. Keynes critically evaluated the category of wealth, its dynamics and structure in the definitions of classical economists, in particular, noting the descriptive nature of their interpretations (Keynes 2007, 43).

J. Turgot, J. H. von Thünen, T. Malthus considered the problems of productivity in the narrow sense, mainly limited to the productive capacity of agriculture. The law of declining productivity of the agricultural sector (soil) was formulated. The main task of current research is to use creative legacy of classical representatives in order to improve economic productivity.

Important research results.

Theory of marginal utility (productivity)

Over time, the issue of wealth was transformed into a standard category of gross domestic product, while the issues of its generation were localised by the competitiveness of nations (Porter, 1990) and by the study of productivity of two main factors: labour and capital. In fact, during the second half of the XX century and at the beginning of the XXI century the productive capacity of a nation has been grounded mainly upon models of total factor productivity (TFP) or multifactor productivity (MFP).

To better understand these complex categories, let us consider the basic principles and concepts with reference to the theory of marginal utility (productivity) in the context of the marginalism paradigm that led to the second revolution in economics. Measuring marginal productivity is carried out gradually in several steps. First, the general formula of marginal physical productivity is determined:

$$MPP_n = TPP_n - TPP_{n-1},$$

where MPP_n is a marginal physical productivity of the n-th unit of labour;

TPP_n is a total physical productivity of the n-th number of workers;

TPP_{n-1} is a total physical productivity of the n-1 unit of workers.

Marginal physical productivity means an increase in output caused by one factor of productivity while the remaining factors are unchanged. Illustration. Six workers produce 120 quintals of wheat. If another (seventh) worker is involved in production, the wheat harvest should total 140 quintals. In this case, the maximum physical productivity of an additional employee is 20 quintals ($140 - 120 = 20$). At the same time, there may be situations when the seventh employee may have lower productivity (lack of additional equipment, lack of experience, physical capabilities, etc.), then the question arises whether it is feasible or not to attract an additional unit of labour in the context of marginal utility theory.

Marginal revenue productivity is defined as an increase in total revenue due to the attraction of a unit of additional factor upon the invariability of other factors. Suppose that 1 worker produces wheat resulting in revenue of \$ 50. Another worker is hired, and as a result the revenue increases to \$ 60. In this case, the marginal revenue productivity the second worker equals \$ 10. ($60 - 50 = 10$).

The value (cost) of marginal productivity is equal to the product of marginal physical productivity and the market price of the product.

$$VMP = MPP \times AR,$$

where VMP is a value of marginal productivity;

MPP is a marginal physical productivity;

AR is an average revenue (market price of the product).

If the market price of 1 quintal of wheat is \$ 10, and the marginal physical productivity of the 1st additional worker is 20 quintals of wheat, then the marginal productivity of the additional worker will be equal to \$ 200. ($20 \times 10 = 200$).

Total Factor Productivity and Multifactor Productivity

Measuring of productivity is a complex process that has its own history, initiated, as noted above, by the fathers of economics (Malthus, Smith, Marshall, etc.). In modern researches such aggregate indicators as a total factor productivity (TFP) and a multifactor productivity (MFP) prevail. Total Factor Productivity is measured by combining the effects of all the resources used in the production of goods and services (labour, capital, materials, energy, etc.) and dividing it into the output; utilizes more than a single factor. Multifactor productivity is the ratio of total output to a subset of inputs. A subset of inputs might consist of only labour and materials or it could include capital. MFP is the residual contribution to output growth of an industry or economy after calculating the contribution from all its factor inputs (Camus 2007, 21,182).

The OECD provides a tabular version for measuring the performance of essential elements of the economic system (table 1).

Table 1. Measuring the productivity of the economic system

Type of output	Type of input measure			
	Labour	Capital	Capital and labour	Capital, labour and intermediate inputs (energy, materials, services)
Gross output	Labour productivity (based on gross output)	Capital productivity (based on gross output)	Capital-labour MFP (based on gross output)	KLEMS* - multifactor productivity
Value added	Labour productivity (based on value added)	Capital productivity (based on value added)	Capital-labour MFP (based on value added)	
	Single factor productivity measures		Multifactor productivity measures	

* The model has resulted from the work of a consortium of 16 research, analytical and statistical organisations from different EU countries established in 2003. (the project has been titled EU-KLEMS)

Source: Measuring productivity. Measurement of aggregate and industry-level productivity growth. Paris, 2001, p. 12.

The OECD methodology examines key single-factor (aggregated) indicators of labour and capital productivity, considering total output and costs and, most importantly, the value added, which reflects the real increase in the welfare of the nation. This creates the possibility of a separate analysis of productivity of both labour and capital, to carry out their synthesis based on multifactoriality and finally take into account the full range of factors based on the KLEMS model. A database of comparable statistics at the industry level is being developed to analyse the relationship between skills growth, technological progress and innovation, on the one hand, and productivity, on the other. An important unit of measurement of the productivity of the nation (country, national economy) is also the total factor productivity (TFP). It is grounded on the Cobb-Douglas production function with its parameters reflecting the contribution of two main factors - labour and capital - to the country's GDP growth.

$$\ln TFP = \ln Y - \alpha \ln L - (1 - \alpha) \ln K,$$

where TFP is a total factor productivity;

Y – output of GDP;

α is the labour (wages) share in the GDP;

$1 - \alpha$ is the capital share in the GDP;

L – labour;

K – capital.

The dynamic aspect involves determining the rate of the TFP growth defined as:

$$p_t = dY_t / dt - \alpha dL_t / dt - (1 - \alpha) dK_t / dt,$$

where p_t is the rate of TFP growth;

Y_t is output (GDP),

dY_t / dt is the rate of output growth,

L is the labour input,

K is the capital input,

α is the share of wages in the national GDP,

t is the time required for economic measurements.

The logarithmic version of TFP growth (*dynamics*) is described as follows:

$$p_t = \ln Y_t / dt - \alpha \ln L_t / dt - (1-\alpha) \ln K_t / dt$$

(Wolff 2014, 134,137).

In addition to this basic formula, there are a number of methods for determining TFP: empirically based quantitative indices, in particular, the hyperbolic Diewert index, econometric methods, stochastic boundary element methods, operating environment analysis, and so on. Exploring the total factor productivity, the authors also take into account such factors as innovation, education, market efficiency, infrastructure, institutions (Kim, Loayza 2019, 6-10).

In the framework of European cohesion policy, it is important to equalize productivity levels between different regions, divided into four categories: frontier regions, catching-up regions, keeping pace regions and diverging regions. Frontier regions were the regions with the highest level of productivity in each country, and the population of the region amounted to 10% of the total population. Catching-up regions have reduced the gap in productivity levels vis-à-vis Frontier regions during the period of consideration. Keeping pace regions have maintained the productivity level gap of (+ 5%) vis-à-vis frontier regions. Diverging regions have increased the productivity gap vis-à-vis frontier regions. (table 2).

Table 2. Contribution of the different regional productivity patterns to aggregate EU GDP and employment growth, 2000-2014

	Contribution to EU GDP growth	Share of EU GDP 2000	Share of EU GDP 2014	Share of EU Employment 2000	Share of EU Employment 2014
Frontier regions	32%	22%	24%	18%	19%
Catching-up regions	24%	18%	19%	23%	22%
Keeping pace regions	30%	40%	38%	38%	39%
Diverging regions	15%	21%	20%	21%	21%

Source: Bachtler J. et al. Towards cohesion policy 4.0. Structural transformation and inclusive growth. Regional studies policy impact books, 2019, Volume 1, Number 1, p. 23.

As can be seen from the table 2 almost 2/3 of the EU GDP and of its employment fall upon keeping pace and diverging regions. At the same time, they contributed only 45%, to the EU economic growth during 2000-2014, while Frontier regions representing 19% of employment provided for 32% of the EU economic growth rate and 24% of the EU GDP in 2014. Catching-up regions show slow progress for a slight increase in the contribution to the EU GDP and a slight decrease in employment. Regions are also differentiated as mostly urban (urban), intermediate and mostly rural. Thus, rural regions among Diverging regions make up almost half (48%), while they account for 42% within Catching-up regions. At the same time, the share of mostly urban regions is 25% in diverging regions and 40% in keeping pace regions.

In research, it is essential to compare the TFP of different countries, to identify trends in convergence or divergence in productivity levels. There are β and σ convergence (Wolff 2014, 61-62). β -convergence is based on the fundamental principles of neoclassical growth theory and characterises mainly the convergence of indicators of less developed countries with industrialised ones in terms of economic development (new global convergence). At the same time, countries with a lower initial level of capital accumulation and a lower level of income accumulate capital faster than the average rate, while countries where the initial capital accumulation exceeded the average level slow down the rate of capital accumulation.

σ -convergence means reducing inequalities in productivity and per capita income among the richest and poorest countries (Wolff 2014, 61-62; Jablonski 2010, 57-58).

The first and the second indicators may differ. The country may be approaching the growth rate of developed countries and even be ahead of the same. However, the gap in GDP per capita may increase.

The main indicators are the volume of GDP per capita, the human development index, indices and indicators of sustainable development, etc. If a number of countries have the same initial conditions and show close convergence rates, this process is called club or group convergence. A clear example of such convergence is the economic development of the so-called Asian tigers in the 70s (Singapore, Republic of Korea, Hong Kong, Taiwan) and in the 80s (Malaysia, Thailand, Indonesia, India) of the last century.

Productivity is measured, as noted, based on total factor productivity (TFP) or multifactor productivity (MFP) models. The starting points are economic growth models with an emphasis on the Solow balance, the Cobb-Douglas production function. Thus, productivity is a relative indicator, the basis of which in the narrow sense is the analysis of the contribution of two key factors—labour and capital—in the generation of national wealth. Thus, the Bank of England’s model for determining total factor productivity uses two main factors – labour and capital. In a broad sense, the TFP and MFP models being not fundamentally different from each other use a much wider set of criteria and indicators. For example, the European KLEMS project (model) use such components as energy, materials, services in addition to labour and capital. Canadian experts offer a much wider range of indicators in the measuring of total factor productivity. In particular, we are talking about intermediate costs (materials, business services, loan capital), labour costs, renewable capital costs, inventories (material values), land resources, other natural resources (fish stocks, forests, oil fields, mines), environmental improvement, working capital, cash and other financial instruments, knowledge capital (education, innovation, R&D, etc.), infrastructure capital (Koszerek et al. 2007, 1.)

Some studies use the methodology of differentiation of productivity into three approaches: labour productivity, multifactor productivity and public productivity or productivity of social services (table 3).

Table 3. Three approaches to measuring productivity

	Labour productivity	Multifactor productivity	Public productivity
Costs	Labour – hours of work, number of jobs, number of employees	The quality of labour in the context of the volume of production from labour	Labour – the equivalent of full employment or the estimated amount of labour
		Capital - capital services index	Capital - consumption of fixed capital
			Intermediate - the cost of intermediate goods and services
Output	Total value added	Total value added	Output measured as a value-based activity with a qualitative

			assessment
Scope	The whole economy, market sector, industry in terms of industries	Market sector, industry	General public services broken down according to the classification of government services

Source: <https://www.ons.gov.uk>.

The table allows us to conclude that labour productivity is measured by the volume of production compared to the number of employees or the final indicator of total value added. The multifactor indicator consists of the total value added formed by the volume of production by labour, the volume of production by capital and the balance of Solow. Productivity of public services is measured by the total output where intermediate services are added to the multifactor indicator. This methodology allows carrying out economic and statistical observations of the dynamics of the main indicators of productivity of different hierarchical levels. An option of comparing the cost-output of V. Leontief is introduced for a more detailed analysis, which complements the theory and methodology of productivity study (Leontief 2006, 85-87).

Productive capacity of the nation

The productive capacity of the nation is a much broader concept than the productivity of the economy or its individual units. This concept resonates in some way with the concept of “competitive advantage of nations” introduced by M. Porter. Many factors that distinguish competitiveness, especially at the macro level, are directly linked to productive capacity. However, the analysis of productive capacity the focus goes not only and not so much to current state of affairs, on the one hand, that is crucial for the initial stage of the study. The term ability contains the potential for diversification, growth, has a certain mobilising, perspective orientation. In particular, A. Toynbee focuses on the positive sources of “new creative capacity” (Toynbee 1995, 20). On the other hand, the purely economic, technological (according to Porter) components are supplemented by nation-building ones such as anthropological, psychological, mental, socio-cultural, institutional, etc. Therefore, the theoretical foundations of the nation’s productive capacity are based on a wide range of factors and processes that result into its economic potential and reveal the mechanisms and tools of its effective use.

A set of factors of national productivity is considered in a detailed version. These include, firstly, the accumulation of capital by attracting domestic and foreign investment; introduction of the newest technologies capable to modernise manufacture; organisation of production and technological processes comparable to the best world models. Secondly, they are deepening of the division and cooperation of labour in the system of network chains at the national and global levels at different stages of production, distribution, creating effective coordination mechanisms for prices, contracts, formal and informal agreements, communications, trust, reputation and more. Thirdly, they are about the development of production infrastructure (transport, energy, telecommunications); improvement of social infrastructure, including public institutions, non-governmental organizations, business and social networks, etc. Fourthly, this means increasing the educational level and competence of those employed in the economy, which according to some calculations, is pivotal in increasing productivity (Nelson 2006).

Indirect productivity factors: support of civil liberties; openness to foreigners; positive relationships with subordinates; self-esteem, sense of personal competence; participation in public and national affairs; interpersonal trust and satisfaction with one’s own life.

Experts also take into account the mental model of the nation consisting of definite and specific beliefs, preferences, conclusions and goals. This is a kind of mental map of the nation. There is a set of institutions, beliefs and guidelines that are either pro-innovative and create conditions for productivity and prosperity, or anti-innovative that inhibit progress and development.

Thus, F. Hayek noted that the Anglo-Saxon legal system created better preconditions, a wider corridor of freedom for economic development and entrepreneurship than the continental one. Similarly, according to M. Weber and other researchers, Protestant ethics gave a huge impetus to undermine the feudal foundations and the rapid development of capitalist relations, productivity growth, capital, economy and the nation as a whole (Weber 1994, 56-57). In analysing the productive capacity of the Ukrainian nation, as well as other communities, an important component is the consideration of the business culture of the people. To this end, Lewis distinguishes three groups of business cultures: monoactive, polyactive, reactive. Ukrainian business culture tends to be polyactive characterised by: general planning, multitasking; flexibility in terms of working hours; non-punctuality, unpredictability of the schedule and rapid change of plans according to the degree of significance of an event, overlapping between the project, loose interpretation of facts, dominant collectivism, high power distance (distance between leader and subordinate), high desire to avoid uncertainty.

According to the calculations of the Federal Bank of St. Louis, the total productivity of factors of production in Ukraine was 0.48 in 1990 compared to the United States, and only 0.176 in 1999, which was due primarily to the transformation crisis after the collapse of the Soviet Union. Positive dynamics of overall performance was observed from 2000 to 2011, but the level of 1990 was never reached (0.35 compared to the United States in 2011). (Economic Research. Federal Reserve Bank St. Louis, 2020).

These indicators illustrate, firstly, the low level of productivity of Ukraine's economy, especially given the key indicators: GDP per capita and the average wage. Secondly, there is a clear trend of volatility, instability of economic processes, vulnerability to internal and external shocks. Third, the weak productivity of the main factors of production – labour and capital with a high level of education of the workforce, the presence of one of Europe's largest engineering corps and scientists – highlights a component that has not yet been sufficiently formalised - the country's institutional system that is the main brake on stable economic progress.

Conclusions

The theoretical and methodological foundations of productivity are laid by the classical authors of economics, who considered these processes through the prism of the division and cooperation of labour, the relationship between the employee and the owner of the means of production. Over time, the focus has shifted on the productivity of the two main factors of production, labour and capital, based on the Cobb-Douglas production function, taking into account the Solow balance and factors such as innovation, education, market efficiency, infrastructure, institutions, and so on. On this basis, the main indicators of productivity nowadays have become the total factor productivity and multifactor productivity. At the same time, the creative heritage of Toynbee, Porter and others indicates an expanded interpretation of productivity as the productive capacity of individual nations and countries. In this case, in addition to purely economic, technological nation-building components other ones such as anthropological, psychological, mental, socio-cultural, institutional, etc. are considered.

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INTEGRATION OF ARTIFICIAL INTELLIGENCE INTO BUSINESS PROCESSES

ІНТЕГРАЦІЯ ШТУЧНОГО ІНТЕЛЕКТУ В БІЗНЕС ПРОЦЕСИ

ИНТЕГРАЦИЯ ИСКУССТВЕННОГО ИНТЕЛЛЕКТА В БИЗНЕС ПРОЦЕССЫ

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Abstract. *AI performs many tasks, including - creating and working in symbolic computing systems, creating and working in systems with fuzzy logic, cognitive psychology, understanding natural language, creating expert systems, computer linguistics, automation of various vocabulary and lexical cards, behavior planning (search and proposal of the most optimal way to achieve the goal, based on this situation), machine translation, creation and management of intelligent robots and groups of mobile robots, etc.*

Key words: *AI, Business processes, Business Process Management (BPM)*

Анотація. *ШІ виконує безліч завдань, серед яких - створення і робота в системах символічних обчислень, створення і робота в системах з нечіткою логікою, когнітивна психологія, розуміння природної мови, створення експертних систем, комп'ютерна лінгвістика, автоматизація процесів ведення різних словникових та лексичних карток,*

планування поведінки (пошук і пропозиція найбільш оптимального шляху для досягнення поставленої мети, виходячи з даної ситуації), машинний переклад, створення і управління інтелектуальними роботами і групами мобільних роботів тощо.

Ключові слова: *III (штучний інтелект), бізнес процеси, менеджмент бізнес процесів (МБП)*

Аннотация. *III выполняет множество задач, среди которых - создание и работа в системах символьных вычислений, создание и работа в системах с нечеткой логикой, когнитивная психология, понимание естественного языка, создание экспертных систем, компьютерная лингвистика, автоматизация процессов ведения различных словарных и лексических карточек, планирования поведения (поиск и предложение наиболее оптимального пути для достижения поставленной цели, исходя из данной ситуации), машинный перевод, создание и управление интеллектуальными роботами и группами мобильных роботов и тому подобное*

Ключевые слова: *III (искусственный интеллект), бизнес процессы, менеджмент бизнес процессов (МБП)*

Introduction. One of the key features of the 21st century world economy development is the transition from the traditional vertical form of organization management to the concept of Business Process Management (BPM), which considers business processes as the main resources of the enterprise, the effective use of which leads to increased productivity.

Today, in addition to the constant factors of successful business process management, such as building a process architecture, defining key business processes and Key Performance Indicators (KPIs) and the distribution of areas of responsibility, the degree of process automation is one of the key factors. Along with the rapid development of information technology, and especially artificial intelligence (hereinafter referred to as "AI"), process owners are increasingly aimed at:

- minimization of the involvement of human resources in the functioning of the business process;
- automation of the relevant business process scenarios, which should be launched after the occurrence of certain events, taking into account the state of internal and external systems, people, different types of restrictions, etc.;
- reengineering business processes through the use of advanced technologies.

Main research results. Mass application of AI technologies in the activities of organizations can lead to a number of serious consequences in the world: a sharp increase in labor productivity, improving the efficiency of the economy, changing the structure of the labor market, a radical rethinking of common norms and more.

New needs of organizations and the rapid development of information technology, including AI, the consequences of which can change the basic subsystems of the world economy and lead to a rethinking of sustainable social norms, are the reasons for choosing this topic in writing a term paper.

As Daniel Hulme, a leading expert in AI and new technologies, noted: "Artificial Intelligence is everywhere. AI isn't just a new set of tools. It's the new world. From automation to augmentation and beyond, AI is already starting to change everything" [21].

The term "artificial intelligence" appeared in 1956, but the real popularity of AI technology has reached only today against the background of increasing data volumes, improving algorithms, optimizing computing power and storage. In the 1980s, scientists Barr and Feigenbaum proposed a definition of artificial intelligence. Artificial intelligence is a field of computer science that develops intelligent computer systems. These systems are grouped into a separate category because they may have abilities that are related to the abilities of the human mind - speech and foreign language recognition, learning and reasoning, and so on. Currently, AI includes appropriate software systems and algorithms that can solve any problem just like the human mind.

According to Daniel Hulme, there are two definitions of AI, the first definition refers to machines that can perform tasks that have traditionally been in the realm of human beings. Humans are the most intelligent beings we know, so when we begin to see machines perform tasks once available only to humans, then we assume that they are intelligence.

The second definition of intelligence - artificial or human - is adapted, goal-oriented behavior. The word goal is used here in the sense of trying to achieve a goal, which in business may be to work more effectively with staff or allocate marketing costs. Behavior is how quickly or without friction you can move resources to achieve a goal. But the key word in defining target adaptive behavior is adaptive. If your computer system does not make a decision and then finds out if it was a good or a bad decision, and adapts its own internal model of the world, it's not AI technology. Therefore, the real definition of AI is a system that can learn and adapt without human help. Adaptability is synonymous with intelligence [21].

Due to the fact that the evolution of the term and definition of AI is constantly continuing, I think it is appropriate to mention the effect of AI. The effect of AI is understood as a state in which experts and specialists devalue the value of AI skills every time a new level of result is achieved, which was unattainable within the previous paradigm.

AI also includes software systems such as heuristics, namely those designed to work in accordance with algorithms for which there is currently no or no defined formal solution model, *i.e.* they are based on experience in decision making. This is very similar to the human decision-making process in difficult situations. Heuristic software systems as a method of solving particularly difficult organizational issues in an uncertain information situation is still in the process of formation, but the interest in it of scientists and organizers of production management is constantly growing.

AI task - a list of tasks in which the process of finding a solution is formalized. The following systems are most widely used to solve the following problems:

- pattern recognition;
- modeling of considerations;
- creation and work in systems of symbolic calculations;
- creation and work in systems with fuzzy logic;
- cognitive psychology;
- understanding of natural language;
- creation of expert systems;
- computational linguistics;
- automation of processes of maintaining various vocabulary and lexical cards;
- behavior planning (search and proposal of the most optimal way to achieve the goal, based on this situation);
- machine translation;
- creation and management of intelligent robots and groups of mobile robots [8].

Solving problems with the help of AI - setting, analysis and presentation of specific situations, in the development and implementation of solutions which require ingenuity, the ability to learn, generalize, draw conclusions. Computer technology is usually used to implement extremely complex intellectual processes for finding solutions, in cases where the final result is unpredictable or is the end of a series of logical conclusions.

Machine intelligence and machine learning are used for all these purposes.

Machine intelligence is a set of computer hardware and software, which provides such human-machine communication (interface), which in its level is close to the communication between specialists who solve a common problem.

Machine learning is a set of such methods and technologies of AI, which are characterized not by problem solving, but by learning to apply solutions to certain similar problems.

The classification system of AI is a long-standing issue in the study of AI technology. Consider the classical classification that divides AI into:

- automated (to perform routine tasks);
- auxiliary (optimizes human decisions);
- extended (aimed at supporting human thinking in extreme situations);
- autonomous (carries out independent activities similar to human thinking).

According to the type of perception of the environment, the AI system can be divided into:

- those who react (only analyze the environment and form a corresponding reaction);
 - with limited memory (adjusts its behavior based on previous "experience", such as unmanned vehicles);
 - with elements of the mind (able to recognize thoughts and emotions);
 - "Strong AI" (which can be compared in mental abilities with a person).
- Another classification is also adopted, which distinguishes among AI systems:
- those with intelligent interfaces and feedback;
 - those that are automated to recognize objects;
 - neural networks;
 - expert systems;
 - automated control systems (ACS) for decision support;
 - cognitive modeling;
 - establishment of empirical data and their intellectual analysis.

There is a classification for the acquisition of the ability to think and become self-aware: strong and weak AI.

It should be noted that each researching AI author proceeds from the applied nature of AI in any science. Consider the approaches used.

Symbolic approach (allows you to operate with weakly formalized ideas and their meanings). A key feature of symbolic calculations is the creation of new rules in the process of program execution.

Logical approach (based on modeling of reasoning and logic). The logical approach can be illustrated by the use of a logical programming language and system for these purposes.

Agent-oriented approach (based on the use of intelligent agents. Intelligence is seen as a computing part of the machine and the ability to achieve its goals. Such a machine is an intelligent agent that measures and analyzes the environment with sensors. In addition, it has the ability to influence objects by means of executive mechanisms.

This approach focuses on those methods and algorithms that will help the intelligent agent to survive in the environment while performing its tasks. In such approaches, algorithms for finding a way and making decisions are studied much more carefully.

Hybrid approach (involves a synergistic combination of neural and symbolic models).

Intelligent information system (IIS) is based on the concept of application of databases and accumulated knowledge in order to create algorithms for solving various applications depending on specific needs.

IIS is characterized by:

- communication skills;
- ability to find solutions to poorly formalized problems, as well as to self-study based on the results of the decision;
- adaptability.

The principle of AI's functioning is to combine a large amount of data with the ability to fast, interactive processing and intelligent algorithms, which allows programs to automatically learn based on the patterns and features contained in the data. AI is a complex discipline with many theories, techniques and technologies. Its main directions are as follows.

Machine learning is a field of knowledge that explores algorithms that are learned from data in order to find patterns. It uses methods of neural networks, statistics, operations research, etc. to reveal hidden useful information in the data; this clearly does not program instructions that indicate where to look for data and how to draw conclusions.

Neural network is one of the methods of machine learning. This is a mathematical model, as well as its software or hardware implementation, built on the principle of organization and functioning of biological neural networks - networks of nerve cells of a living organism.

In-depth learning uses complex neural networks with many neurons and layers. Increased computing power and improved techniques are used to train these deep neural networks, as well as to identify complex patterns in vast arrays of data. Common applications: image and speech recognition.

Cognitive computing is the direction of AI, the task of which is to ensure the process of natural human interaction with the computer, similar to the interaction between people. The ultimate goal of AI and cognitive computing is the simulation of human cognitive processes by a computer through the interpretation of images and speech to obtain an appropriate response.

Computer vision relies on pattern recognition and in-depth learning to recognize images and videos. Machines already know how to process, analyze and understand images, as well as take photos or videos and interpret the environment.

Natural language processing is the ability of computers to analyze, understand and synthesize human language, including oral speech. We can now control computers using ordinary language used in everyday life. For example, using Siri or Google assistant.

In addition, the operation of AI is provided by other important technologies.

The existence of AI is impossible without graphics processing units (GPUs), as they provide the computing power needed for iterative data processing. "Big data" and computing resources are needed to train neural networks.

The Internet of Things collects huge amounts of data from connected devices. Most of this data has not been analyzed. Automating models with AI will allow you to use more of this data.

More sophisticated algorithms are being developed and combined in a new way, which allow faster analysis of a larger amount of data at several levels. Such intelligent processing is the key to detecting and predicting rare events, understanding complex systems and optimizing unique scenarios.

Application programming interfaces (APIs) are mobile code packages through which AI functionality can be integrated into existing products and software packages. With the API, you can add an image recognition feature to your home security system or question-and-answer functions to describe data, create captions and headings, and identify interesting patterns in your data and other useful information.

Speaking about AI technologies in business, let us remember the words of Daniel Hulme: "If used correctly, this can absolutely change your business. But there's a lot of hype out there, and a lot of people investing in these technologies don't know what they're doing" [21].

Among all AI technologies, there are five that can change business processes in the foreseeable future most profoundly and CIOs are advised to closely monitor their development.

Augmented intelligence.

To augmented intelligence systems, analysts include automation tools that help increase the productivity of mental work. They help to organize a "partnership" between people and AI, in which the former play the leading role.

The use of artificial intelligence in this capacity helps to reduce the amount of routine work and, accordingly, the number of errors during its execution. And human participation, in turn, will reduce the risk associated with automated decision-making - due to the fact that people will be able to solve questions to which AI has not yet been trained [20].

Chatbots.

Chatbots, the "face" of artificial intelligence that we encounter almost every day, are also changing the way we interact with customers. For example, at Kia, they help 115,000 car owners solve their problems every week, and at the German network of discounters Lidl, a bot named Margot gives customers advice on choosing wines and snacks.

Chatbots can be text and voice, they answer standard questions according to a script compiled in advance based on the experience gained by live operators. They can be used to solve

the tasks of human resources or technical support, to help employees adapt to a new location, etc. But to the greatest extent, these AI solutions have changed the customer service process. If before the user usually had to study the interface with the system, now the chatbot "studies" the user, "guessing" his intentions and prompting further action [20].

Machine learning.

Among the tasks that can be solved by machine learning - personalization of customer service, dynamic pricing, disease diagnosis, combating money laundering and much more. The principle of operation of machine learning tools is identification of patterns present in the data using mathematical models. Machine learning is increasingly used, which is facilitated by the rapid growth of data in organizations and the active development of computing infrastructures.

Machine learning helps to optimize processes and find new solutions to business problems in a variety of industries. For example, in American Express, machine learning algorithms and analysts recognize fraud attempts in near real time, saving the company millions by preventing losses. And at Volvo, analytical systems predict probable failures and the need for repair and maintenance of various components of cars, helping to increase their safety [20].

AI control system.

Experts are convinced that the creation of an AI governance system at enterprises cannot be neglected. This is necessary, inter alia, to understand and control the potential risks associated with the regulation and the possibility of damage to reputation. The AI management system is based on specially designed policies to prevent AI system errors ("bias"), discrimination of users or groups of users on certain grounds and other possible negative consequences of the use of artificial intelligence.

When developing the AI management system, experts recommend that analysts and CIOs pay attention to three areas: trust, transparency and the principles of ethnocultural diversity. The need to be able to trust data sources and the results of AI systems is one of the cornerstones of their successful implementation, and the development of transparency requirements for data sources and algorithms will reduce risks. Concern for compliance with the principles of diversity in data and algorithms contributes to the ethics and accuracy of the results of AI-based solutions [20].

Smart apps.

For several years, the only opportunity to implement artificial intelligence was the independent development of AI systems. However, today most organizations prefer not to develop such solutions and not even buy individual AI systems, but to obtain AI tools as part of corporate applications.

Initially, analytics tools with built-in AI technologies were the most "intelligent". Recently, however, suppliers of a variety of enterprise applications - ERP, CRM, human resource management and office suites are embedding AI tools in them and are beginning to create AI platforms [20].

How to integrate AI technology into business processes?

Find possible ways to implement AI technologies with the highest return on investment. Test the previous concepts carefully in order to make a decision as soon as possible. Find innovative solutions on a large scale.

Future AI leaders are defining their strategies today. Organizations can start with low-risk/high-impact pilot programs, but for long-term success they need to:

- to coordinate the AI strategy with the business strategy;
- to develop the possibility of adopting AI at the enterprise level;
- to create institutionalized models of work with AI capabilities;
- create an appropriate AI department to ensure safety and reduce risks [1].
- Problems in which AI and machine learning could help:

1. AI will change the landscape of the labor industry. One of the right ways for AI is to transform the business through automation. Large-scale manufacturing companies will use AI to replace human labor because it is cheaper, more accurate, more productive, and less prone to error. Other business sectors that are heavily modified due to the implementation of AI are administrative

functions such as administrators and assistants, as well as customer service. Responding to calls for day-to-day accounting, AI platforms will handle the same much better, saving a lot of money for companies and increasing efficiency.

2. Increasing the mobility of enterprises. Enterprise mobility is the future of foreign-invested business, as the working model of the central office gradually shifts to the model of working from home or other remote locations. With the development of AI solutions, employers will be able to give employees the opportunity to work anywhere. Excellent enterprise mobility will allow employees to control their schedules and environment, paving the way for increased efficiency and productivity. AI will also allow such employees to acquire new skills and improve their portfolio to become more competent in a much easier way, as they do not need to be physically present in training and other training programs.

3. Increased efficiency and higher accuracy at lower costs. With the advent of AI, the minimum error and errors that cause additional costs to businesses, as well as loss of productivity, will be minimized. Businesses will be able to enjoy greater efficiency and accuracy because AI eliminates human error and creates fewer risks for business. In addition, machines run faster than humans and do not have to pay, so it will also be cost-effective and save a lot of money for the business. Moreover, thanks to its strong and fast computing capabilities, AI programs could process large data sets much faster, helping businesses reach high levels in strategy development, forecasting and business growth planning.

4. AI will help integrate and consolidate business operations. In line with new business development trends for business in 2020, AI will also help businesses consolidate and integrate their business processes. One of the main problems facing large enterprises is the fragmentation of various business processes and the creation of poor synergies. AI technology, integrated into enterprise resource planning (ERP) solutions, will be able to use fragmented work pieces and integrate them into a complete whole, testing and analyzing each information. This will consolidate employees, operations and systems and, as a result, increase efficiency, productivity and revenue.

5. AI will pave the way for stronger protection against cyberattacks and fraud. With the development of stronger AI, cybersecurity programs will be better equipped to test and predict cyberattack scenarios and find security gaps. Improving neural networks help analyze user behavior and detect suspicious transactions, as well as create algorithms to prevent financial losses. AI has great potential with its ability to study models of networks, devices and systems, as well as to decode deviations that can detect attacks in the process.

6. AI will help keep the equipment in good condition longer. For example, AI can predict equipment failure, which saves money on ongoing scheduled inspections. You can also use it to replace equipment parts just when you need them, not when "recommended by the manufacturer". And having carefully studied and tested the digital model of your equipment, you can optimize its performance online depending on various factors.

7. Development of marketing strategy on the basis of the provided data and the set purposes. Artificial intelligence helps in the work of a marketer: not only analyzes the experience of previous sales, but also uses forecasting to "predict the future", as well as takes into account the behavior of competitors and the general market situation.

Currently, AI performs many tasks, including - creating and working in systems of symbolic calculations, creating and working in systems with fuzzy logic, cognitive psychology, understanding natural language, creating expert systems, computer linguistics, automation of various vocabulary and lexical cards, behavior planning (search and proposal of the most optimal way to achieve the goal, based on this situation), machine translation, creation and management of intelligent robots and groups of mobile robots, etc.

The introduction of AI requires a significant change in business processes, and new solutions that use AI technology can lead to the creation of new business processes that open up new business opportunities: the influx of customers, increased profits, increased loyalty, etc.

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**АКТУАЛЬНІ ПРОБЛЕМИ
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