
**TARAS SHEVCHENKO NATIONAL UNIVERSITY OF KYIV
EDUCATIONAL AND SCIENTIFIC INSTITUTE OF INTERNATIONAL RELATIONS**

**АКТУАЛЬНІ ПРОБЛЕМИ
МІЖНАРОДНИХ ВІДНОСИН**

ISSUE 150

ACTUAL PROBLEMS OF INTERNATIONAL RELATIONS

ISSN 2308-6912



2 308691 200005 >

KYIV – 2022

Актуальні проблеми міжнародних відносин : Збірник наукових праць.
Випуск 150.

К. : Київський національний університет імені Тараса Шевченка.

Навчально-науковий інститут міжнародних відносин, 2022. – 68 с.

Actual Problems of International Relations. Issue 150, #1 (2022), 68 p. Published by Institute of International Relations of Taras Shevchenko National University of Kyiv. All rights reserved.

Specifics about Editorial Team and Policy in English can be found at <http://apir.iir.edu.ua/index.php/apmv>

Relevant and most actual problems of international relations, international economic relations, business and finance as well as international law and communications are revealed and comprehensively researched.

Developed and designed for researchers, scientists, Ph.D. students and masters.

У Збірнику розглянуто актуальні питання розвитку сучасних міжнародних відносин, міжнародного права та міжнародних економічних відносин.

Розраховано на викладачів, наукових співробітників, аспірантів та студентів.

РЕДАКЦІЙНА КОЛЕГІЯ ЗБІРНИКА НАУКОВИХ ПРАЦЬ «АКТУАЛЬНІ ПРОБЛЕМИ МІЖНАРОДНИХ ВІДНОСИН»

Головний редактор: *Резнікова Н. В.*, д.е.н., проф., Навчально-науковий інститут міжнародних відносин Київського національного університету імені Тараса Шевченка.

Заступник головного редактора: *Дорошко М. С.*, д.і.н., проф., Навчально-науковий інститут міжнародних відносин Київського національного університету імені Тараса Шевченка.

Відповідальний редактор: *Нанавов А. С.*, к.е.н., доц., Навчально-науковий інститут міжнародних відносин Київського національного університету імені Тараса Шевченка

Заступники відповідального редактора: *Хлистул Г. Ю.*, к.політ.н., Навчально-науковий інститут міжнародних відносин Київського національного університету імені Тараса Шевченка, *Лазаренко М. М.*, к.ю.н., Навчально-науковий інститут міжнародних відносин Київського національного університету імені Тараса Шевченка, *Макеєнко Л. Ф.*, Навчально-науковий інститут міжнародних відносин Київського національного університету імені Тараса Шевченка.

Склад редакційної колегії

Грем Томас., д.політ.н., радник президента США з питань зовнішньої політики та безпеки, провідний науковий співробітник Інституту Джексона з глобальних питань Йельського університету (м. Нью-Хейвен, США),

Гейгер Мартін., доктор філософії (політологія), Університет Карлтон (м. Оттава, Канада),

Еспіноза Гастон., д.і.н., проф., коледж Клермонт Мак-Кенна (м. Клермонт, США),

Картасова Єкатерина, д.е.н., Мідлсекс університет (м. Лондон, Велика Британія),

Кремона Маріз, д.ю.н., проф., Європейський академічний інститут (м. Флоренція, Італія),

Сіскос Євангелос, д.е.н., проф., Державний технологічний навчальний інститут, (м. Касторія, Греція),

Хонг Ліу, д.політ.н., проф., Технологічний університет (м. Наньянг, Сінгапур),

Шаркі Нолан, д.ю.н., Університет Західної Австралії (м. Перт, Австралія),

Кьоллер Юрген, д.е.н., Інститут економіки, Університет Ерлангена-Нюрнберга (м. Ерланген, Німеччина),

Смолл Уоррен, д.ю.н., Міддлберійський Інститут дослідження міжнародних відносин (м. Монтерей, США),

Балюк Валенти, д.політ.н. (габітовантй), проф., Університет Марії Кюрі-Склодовської (м. Люблін, Польща),

Чан Ман Хунг Томас, д.е.н., Чу-Хайський коледж вищої освіти, (м. Гонконг. Китай)

Склад консультаційної ради при редакційній колегії

Білоцький С. Д., д.ю.н., проф., Навчально-науковий інститут міжнародних відносин Київського національного університету імені Тараса Шевченка,

Затонацька Т.Г., д.е.н., проф., Економічний факультет Київського національного університету імені Тараса Шевченка,

Копійка В.В., д.політ.н., проф., Навчально-науковий інститут міжнародних відносин Київського національного університету імені Тараса Шевченка,

Купалова Г. І., д.е.н., проф., Економічний факультет Київського національного університету імені Тараса Шевченка,

Медведєва М.О., д.ю.н., проф., Навчально-науковий інститут міжнародних відносин Київського національного університету імені Тараса Шевченка,

Неліна Д.В., д.політ.н., доц., Філософський факультет факультет Київського національного університету імені Тараса Шевченка,

Піпченко Н. О., д.політ.н., доц., Навчально-науковий інститут міжнародних відносин Київського національного університету імені Тараса Шевченка,

Смірнова К.В., д.ю.н., проф., Навчально-науковий інститут міжнародних відносин Київського національного університету імені Тараса Шевченка.

Адреса редакційної колегії:

04119, Київ, вул. Юрія Іллєнка, 36/1, Навчально-науковий інститут міжнародних відносин Київського національного університету імені Тараса Шевченка.

тел. 044 481-44-68.

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

Збірник наукових праць включено до переліку наукових фахових видань України (категорія Б) у галузі політичних, юридичних і економічних наук (спеціальності – 051, 052, 072, 073, 081, 291, 292, 293).

Рішення Атестаційної колегії Міністерства освіти і науки від 06.03.2020 р.

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

Автори опублікованих матеріалів несуть повну відповідальність за підбір, точність наведених фактів, цитат, економіко-статистичних даних, імен власних, коректність перекладу на іноземну мову та інших відомостей.

Всі права застережені. При цитуванні обов'язкове посилання на Збірник наукових праць «Актуальні проблеми міжнародних відносин».

© Навчально-науковий інститут міжнародних відносин. 2022.

ПОЛІТИЧНІ ПРОБЛЕМИ МІЖНАРОДНИХ ВІДНОСИН

УДК 327.82.008

CULTURAL DIPLOMACY AS A KEY COMPONENT OF FOREIGN POLICY OF STATES

КУЛЬТУРНА ДИПЛОМАТІЯ ЯК ВАЖЛИВА СКЛАДОВА ЗОВНІШНЬОЇ ПОЛІТИКИ ДЕРЖАВИ

Shynkarenko T.I.

PhD in Historical Sciences, Associate Professor at the International Organizations and diplomatic Service Chair of the Educational and Scientific Institute of International Relations of Taras Shevchenko National University of Kyiv. E-mail: tshincar9@gmail.com

Шинкаренко Т.І.

Кандидат історичних наук, доцент кафедри міжнародних організацій і дипломатичної служби Навчально-наукового інституту міжнародних відносин Київського національного університету імені Тараса Шевченка. E-mail: tshincar9@gmail.com

Abstract. The article highlights the place of cultural diplomacy in the system of foreign policy of states. It considers different models of cultural diplomacy, its forms and instruments of implementation. New tendencies of the cultural diplomacy development nowadays, as well as the correlation of notions of public diplomacy, cultural diplomacy, international cultural policy, are analyzed.

Key words: public diplomacy, cultural diplomacy, international cultural policy, soft power, Institutes of cultural diplomacy.

Анотація. У статті висвітлено місце культурної дипломатії у системі зовнішньої політики держав. Розглянуто різні моделі культурної дипломатії, її форми та інструменти реалізації. Проаналізовано нові тенденції в розвитку культурної дипломатії в наш час, а також співвідношення понять публічної дипломатії, культурної дипломатії, зовнішньої культурної політики.

Ключові слова: публічна дипломатія, культурна дипломатія, зовнішня культурна політика, м'яка сила, інститути культурної дипломатії.

Definition of the problem. Cultural diplomacy has a long history and today remains an important component of foreign policy of many states. In Ukraine cultural diplomacy has begun to develop actively in recent years. Thus, the experience of international cultural policy in different countries, particularly in modern conditions, are important to analyze.

The aim of the article is to analyze a definition, models, forms and instruments of cultural diplomacy.

The analysis of recent research and publications. In a scientific discourse of the study of influence of cultural instruments on diplomacy intensified due to Joseph S. Nye's works and his concept of "Soft power" in 1990. Numerous studies in this field focused on the role of a state in cultural diplomacy. These are, for example, the works of Simon Mark, Kirsten Bound, Rachel Briggs, John Holden, Samuel Jones, Jan Melissen. The works of practitioners of cultural diplomacy, namely diplomats, are important to scrutinize. For instance, Ruth McMurry's and Muna Lee's (the USA), Jerzy Onuch's (Poland), Dmytro Kuleba's (Ukraine).

Among the Ukrainian scholars the issues of cultural diplomacy, particularly in the theory of international relations, are studied by S. Hutsal, O. Zernetska, M. Ozhevan, O. Kuchmiy, Y. Konstantynova, O. Lytvynenko, A. Lutsenko, I. Misiuk, N. Musienko, Y. Makarenko, O. Rozumna, T. Peresunko, I. Piskorska, O. Potiekhina, M. Protsiuk, H. Pocheptsov, I. Sukhorolska, O. Tyshchenko-Tyshkovets, N. Serbina, Y. Turchyn etc.

Presentation of the main research outcomes.

Nowadays countries that are aware of their national goals exert all necessary efforts and invest significant funds to promote their cultural diplomacy. Cultural diplomacy as a “soft power” tool is recognized as an important direction of state policy in the terms of addressing issues of national security, creating a positive international image and enhancement of intercultural dialogue.

France is deeply experienced in implementing cultural diplomacy, where back in XVII-XVIII centuries French ambassadors began to perform cultural functions, and in 1883 a non-governmental public association Alliance Française was established in order to popularize the French language and culture abroad. The first French institutions in European states were founded at the beginning of the XX century. French political leaders had always understood the importance of cultural components in foreign policy and allocated a significant part of public funds to cultural diplomacy. With Charles de Gaulle coming to power, cultural diplomacy gained a new meaning and was seen as a tool of restoring the former greatness of the French Republic.

Unlike France, for Great Britain cultural diplomacy was not a foreign policy priority until the 1940s, as the status of a “colonial empire” determined the dominant position of British culture and the English language in Asian and African states. The British Council was established in 1934 with the view to counter fascist propaganda in Europe. The outbreak of the Cold War and the loss of “the colonial empire” status prompted Great Britain to seek new strategies of foreign policy, namely in the field of culture, which were aimed at providing the state an opportunity to remain an influential global political actor. Moreover, the implementation of foreign cultural policy fostered the cultural consolidation of the nation, since the people of Scotland, Wales and Northern Ireland considered themselves to be separate nations, not identical to the English one.

Modern peculiarities of German cultural diplomacy started developing after the Second World War, when the governments of both West and East Germany faced the problem of minimizing negative associations and identifications of everything German with Nazism, the Holocaust, genocide, intolerance to “others” and so on. That’s why German cultural diplomacy was aimed at creating the image of “normality”, in contrast to France, for example, which focused on formation of the image of “national greatness”. German cultural diplomacy in the 1950s was also a part of indirect support for German export (“Learn German, Buy German”). After the unification of Germany in 1989, international cultural policy contributed to the creation of a new image of the unitary developed state as a driving force of the European integration. International cultural policy facilitated the accession to the EU of Central and Eastern European states, such as Poland.

The impetus for the development of cultural policy in Ukraine was the Revolution of Dignity and resistance to Russian aggression. It is cultural diplomacy that provides the necessary instruments not only for international presentation of Ukraine, creating the image of a modern country that has a lot to offer to the world, but also for self-identification and consolidation of the Ukrainians. In the case of Ukraine, it is crucial to counter a hybrid information war and hostile propaganda in different regions of the world, combating negative stereotypes. Therefore, the director of the Ukrainian Institute V. Sheyko called cultural diplomacy an important factor of national and information security, the opportunity of dialogue with the world as equals, a powerful tool for creating positive narratives about Ukraine in the international information field, a way to fight with negativity, prejudice and disinformation [Sheyko, 2020].

The notion of international cultural policy took on its increasing importance at the end of the XX century due to the promulgation of official concepts of international cultural policy in Germany and Russia. The appearance of these documents necessitated the development of theoretical foundations for this issue and became an incentive to elaborate concepts of international cultural policy in other states. Apart from that, cultural diplomacy was viewed as a part of the “soft power”

policy, a concept which was grounded by American political scientist Joseph Nye. According to him “soft power” is a capability of a state to shape the preferences of other countries, based on three main components: the culture of the country, its political values and foreign policy.

The neoliberal concept of “soft power” states that transfer of social behavior, rules of international law from one country to another can harmonize international relations or make them more predictable. Proponents of constructivism emphasize that each state has its own perception of the world, different from other cultures and values, and this diversity is the basis for creating a stable peace and relations. The main prerequisite is to attempt to understand “others” through public diplomacy programs without denying their rights to have own identity. Thus, for constructivists cultural diplomacy is a means of understanding “other” cultures that will bring about the establishment of more humane relations between people and states. It is worth mentioning that realists see cultural diplomacy as a purely governmental instrument designed to address national security issues and influence the behavior of foreign authorities.

Therefore, cultural diplomacy as a form of “soft power” is a key component of international relations toolkit. It provides the opportunity to persuade through culture, values and ideas as opposed to “hard power” characterized by coercion with the help of military or economic pressure. “Cultural policy is an exquisite tandem of art and politics”, notes journalist, art expert and art manager Valentyna Klymenko [Klymenko, 2019].

The concepts of public and cultural diplomacy are related, since the nation reveals its identity to the world, presents its values and ideas through culture. Certain agencies of foreign affairs, for example in the USA, New Zealand, Canada, Great Britain, Australia and Japan, carry out their cultural diplomatic activity within the scope of public diplomacy. That is exactly why cultural diplomacy is frequently viewed as a part of public diplomacy. Thus, leading British expert in the field of public diplomacy Nicholas Cull believes that cultural diplomacy is one of the areas of public diplomacy, focused on establishing relations between a state and foreign public in the realm of culture. However, cultural diplomacy cannot be equated with public diplomacy, since the latter encompasses a wider range of tools, namely in the information sphere.

The term “cultural diplomacy” is believed to have been enshrined into a scientific discourse by American researcher F. Barghoorn in the 1960s, who defined it as “the manipulation of cultural materials and personnel for propaganda purposes”, referring to the propaganda policy of the USSR [Barghoorn, 1960]. The definition formulated by American political scientist Milton K. Cummings became even more widespread, according to which cultural diplomacy is the exchange of ideas, information, values, traditions and other aspects of culture that can foster improvement of mutual understanding among peoples. However, American scholar F. Taylor believes cultural diplomacy to be, a political activity that serves national interests “under the guise of culture”. He divides key elements of soft power into long-term (cultural and educational exchanges as well as building mutual trust) and short-term (communicating information through media). Cultural diplomacy serves not only as a bridge between countries and civilizations, but also as a platform for effective interactions between civil society, public sector and business.

In modern international relations the term “cultural diplomacy” is used by France, Poland, Ukraine and many others as a synonym for foreign cultural policy of states. Australia, the Netherlands and Sweden employ “international cultural policy”, and Great Britain, Australia, Canada and Singapore apply “international cultural relations” that symbolize international cultural interactions. In American practice cultural diplomacy is often equated with the public one, as it allows to promote interests of the state on the international arena by means of culture. Some countries, such as China, use the term “people’s diplomacy” which means a large-scale non-governmental interaction.

According to the Ukrainian Diplomatic Encyclopedia, cultural diplomacy is a foreign cultural policy (policy of culture) aimed at the perseverance of national culture, the defense of national and cultural identity in international cooperation, or the use of various factors of culture, art and education in order to protect and promote national interests on the international arena [Ukrainian diplomatic encyclopedia, 2013, p. 108].

In our opinion, the terms “cultural diplomacy” and “foreign cultural policy” are close in meaning, however not identical. The former is more appropriate for such types of cultural interactions when a greater influence of governmental bodies, including foreign-policy agencies and budget financing, is observed. The latter conveys closer interactions with non-governmental bodies and organizations, the employment of private funding. That is exactly the term used by the European Institutions to describe cultural activities [Forum of Cultural Diplomacy, 2020].

Cultural diplomacy is a special kind of diplomatic activity related to the use of culture as an object and means of achieving the main goals of foreign policy, creating a positive image of the country, promoting the culture and language of its peoples. It is both the sphere of diplomatic service aimed at the use of culture as an object and tool of attaining the goals of foreign policy, as well as a sphere of intercultural dialogue as a means of social and cultural development of a state. Thus, cultural diplomacy today performs two important and interrelated diplomatic and social functions in international relations. According to Ukrainian expert O. Rozumna, one can distinguish external and internal aspects of cultural diplomacy: the former involves ensuring the image and success of international relations, the latter – changing the paradigm of culture and cultural policy, including the content and quality of cultural product [Rozumna, 2016, p. 4].

The active usage of methods and forms of cultural diplomacy contributes to the establishment of an attractive image of the state as well as knowledge about it, that the representatives of other nations and communities have. Cultural diplomacy can also serve as a tool to form tolerance and mutual respect in modern world while creating the image of the state. Ukrainian scholar N. Rzhevskya believes that the dissemination of information fosters the understanding of ideals and values of the representatives of other cultures, helps to shape a broader and unbiased worldview, that allows to treat the representatives of other countries without prejudice [Rzhevskya, 2014].

Thus, cultural diplomacy is a subject of research and the reality of policy of intercultural cooperation, that has national peculiarities and implementation mechanisms and is used as a tool of intergovernmental cooperation or “soft power”, with the view to ensuring national interests at the global, regional and national levels. Nowadays cultural ties are not seen as complements to political and economic ones, but rather as independent factors, aimed at achieving state interests in foreign policy. Former director of the Polish Institute in Ukraine and the USA Y. Onuch points out that diplomacy is a constituent part of culture, not vice versa, which is often forgotten by professional diplomats and even more often by decision-makers [Onuch, 2015].

The main spheres of implementation of cultural diplomacy are culture, language and science, with the first two being closely related, since the language is a channel of information transmission and spread of culture, which contains the cultural code of the nation. Therefore, cooperation in the realm of science is directly connected to the stratum of development of cultural relations between countries, the due level of which guarantees more fruitful and scientific collaboration. Cultural diplomacy fosters the dissemination of information about the state, creation of its favorable image, improvement of bilateral relations with the host country, spread of political influence in those countries, as well as economic development of the state and its access to new markets.

Different countries choose diverse models of cultural diplomacy, which is determined by various factors, including the duration of the use of this form of interstate cooperation. Cultural diplomacy of democratic countries will differ from non-democratic, well-developed states, from those with transitional economy, big ones from small. There are the following models of cultural diplomacy according to the form of organization: French, British, German. Also Italian, American and Asian ones can be emphasized.

French cultural diplomacy is characterized by strict centralization, direct control of the state and high levels of public funding. In 2011 the French Institute was established that became the only provider of the French cultural events abroad. Cultural diplomacy is an integral part of French foreign policy, with the head of the embassy overseeing the activities performed by cultural institutes at the local level. One of the main priorities of French diplomacy is the popularization of the language, particularly the widespread support of the Francophonie. The Ministry of Europe and Foreign Affairs plays a key role in promoting French cinematography and literature overseas. The

know-how of France are audiovisual attachés (there are approximately 30 of them in 92 countries) – a network of agents working on implementation of audiovisual policy abroad, namely in the spheres of cinematography, video games, music, web content etc. They also facilitate the grant of access of French private and public mass media to local markets. The French model of cultural diplomacy is implemented on the basis of UNESCO, the Council of Europe, the European Union and bilateral relations; it envisages a priority role of the state while translating it into life, unlike the Anglo-Saxon and German models, where a large share of the functions concerning foreign cultural activities are taken over by the private sector. The French model of cultural diplomacy has both advantages and disadvantages. The latter include low involvement of the private sector in the funding of international cultural projects and excessive bureaucratization. The advantage of centralized institutions working with cultural diplomacy in France is the opportunity it gives to the Ministry of Europe and Foreign Affairs to devise the long-term strategy and priorities of cultural diplomacy, necessary in the context of increasing competition on the international stage in the field of culture.

The British model is based on the principle of indirect control (the so-called principle of “an outstretched arm”), where intercultural cooperation is completely or partially funded by the government, usually the Foreign Office, while administrative and coordinating responsibility for implementation is delegated to non-governmental institutions (the British Council, for instance). The success

Institute), Britain (British Council), Italy (Istituto Dante Alighieri), Spain (Cervantes Institute), China (Confucius Institute), that position themselves as the countries with rich cultural heritage. Foreign departments of the Institutes of cultural diplomacy have advantages of understanding the characteristics of the foreign audience, its preferences, national place in modern world culture. The Institutes of culture create a network of language courses and libraries, organize festivals and exhibitions, launch cultural projects, promote education and science in the state of accreditation.

The central Institution of Ukrainian cultural diplomacy is the Ukrainian Institute that was founded in 2017 and works under the Ministry of Foreign Affairs. It is a state Institution which represents Ukrainian culture in the world and creates a positive image of Ukraine abroad. The mission of the Ukrainian Institute is the following: “promoting the image of Ukraine as an international and domestic actor by means of cultural diplomacy”. The Institute and such agencies as the Ukrainian Cultural Foundation, Ukrainian Book Institute and Ukrainian State Agency, established in 2010s, became tools of cultural diplomacy both at the national and international levels.

At the same time effective cultural diplomacy is impossible without employing a cultural material of a certain number and quality. Key elements of modern cultural diplomacy are popular artistic culture, higher education, science, sport, tourism, and journalism. Diplomats need to rely on the symbols that are well of British cultural diplomacy is related to the spread and increasing of popularity of the English language, the prestige of British education and the important role of Great Britain in the world history and culture.

The German decentralized model of organization is based on the one hand, on the relative control of the state and to some extent on the centralization of international cultural activities, and on the other – on the principle of disassociation from the authorities, which is a characteristic feature of the federal political system of Germany. The Federal Foreign Office of Germany formulates official guidelines of the policy of intercultural cooperation and inserts them into bilateral agreements, while the practical implementation of foreign cultural strategy is the responsibility of the so-called partner organizations, the most prominent of which are the Goethe-Institute, German Academic Exchange Service, Alexander von Humboldt Foundation, Institute for Foreign Cultural Relations, Deutsche Welle, Central Agency for German Schools Abroad.

The peculiarities of German foreign cultural policy are the activities of German non-governmental political foundations, the six largest of which are Friedrich Ebert, Friedrich Naumann, Konrad Adenauer, Hans Seidel, Heinrich Böll and Rosa Luxemburg. They are associated

with various political parties and significantly provide the state with services to promote German culture. Due to the status of non-governmental organizations, they cannot be accused of interfering in the domestic affairs of other countries, so they may work with the public, where formal contacts are not always possible. The German model is considered to be more liberal, as cultural centers have greater autonomy, and the diplomatic mission performs the function of supervision (mentoring).

According to the practice of US foreign policy cultural diplomacy is inseparable from public diplomacy. There has never existed the Ministry of Culture in the United States, and cultural activities are carried out independently from the state. At the same time, American popular culture, especially Hollywood, is an important part of the US “soft power”. The country does not have any specific foreign agencies to work purely with cultural diplomacy. The American foreign cultural policy is conducted by embassies and funded by the Department of State.

The main feature of Italian public diplomacy is diplomacy of the diaspora. Italian communities are formed in foreign countries on the basis of cultural and ethnical kinship, and they permanently keep contact with each other and Italy. The most important task of these communities is to inform and familiarize emigrants and their descendants, as well as the citizens of the host state, with the peculiarities of modern Italian culture. The Directorate General for Italian Citizens Abroad and Migration Policies is the key institution coordinating this process.

In 2011 the Directorate General for Cultural and Economic Promotion and Innovation was established in the Ministry of Foreign Affairs of Italy, the main focus of which is to promote culture and economics of the country. The new changes concerned the increasing role of cultural diplomacy in the foreign policy of Italy. The concept of cultural and economic promotion encompasses all the institutions of the state: industrial, bureaucratic, economic, scientific, technological, cultural, designed to cooperate in the field of international relations. Thus, a key feature of the Italian model is the connection between culture, politics and economics.

Austria is one of a few European countries where culture is funded by the state, and expenditures on it exceed those on defense. Cultural policy is a basic component of the formation of Austrian identity and an important factor of its international perception. A foreign policy image of modern Austria is “a small country with great culture”.

Different states have common objectives in the sphere of cultural diplomacy, although set themselves specific tasks. For example, Austria, Germany, Italy and Great Britain seek to redesign their image through culture, art, education and cultural exchanges. China, for instance, operates in the realm of culture in Europe to establish credible partnership ties and to smooth over debates of the domestic issues of the state (the gravest of which are violations of human rights).

A significant element of Russian cultural diplomacy are measures taken in order to support “compatriots” abroad, protect their rights and interests in host countries. Cultural diplomacy gradually transformed into a tool of propaganda in foreign policy. The government tries to counteract reduction of the use and status of the Russian language in post-Soviet countries, limitation of influence of the Orthodox Church, especially the Moscow Patriarchate. By the decree of the President of the Russian Federation of June 21, 2007, the Russian Peace Foundation was established to promote the ideology of Russian culture abroad. It is important to note that such an approach of propaganda in cultural diplomacy entails distrust of those to whom it is addressed, and according to J. Nays destroys “soft power” of the state.

Cultural diplomacy has a different status in the system of foreign policy of each state. In France, Germany and Austria, for example, it constitutes a historically traditional and efficient instrument of foreign affairs; the USA views it as a part of public diplomacy, and in Russia it is funded on the leftover principle and is focused on post-Soviet states.

China is actively developing its concept of cultural policy and is dramatically strengthening its positions on the international stage. Confucius Institutes are usually located on the territories of partner universities of the Chinese ones. Their main programs are focused on language and art, although they increasingly include seminars and lectures on modern history and policy of China. Criticism of the Institutes is connected to their leaders efforts to avoid such controversial topics as

human rights violations in China, Tibet and Taiwan. Another concern is related to inappropriate influence on education and research, industrial and military espionage, as well as the surveillance of the Chinese abroad. Some universities, where the Confucius Institutes were established, even decided to terminate contracts with them. During the years 2010-2020 many establishments were closed in the USA, Canada, Belgium, France, the Netherlands, Sweden and Japan.

The Republic of Korea is expanding the net of its own cultural centers as a key component of the strategy of national branding. India also has ambitious programs on the enlargement of its cultural diplomacy net, especially in neighboring countries. Indonesia, Vietnam, Malaysia and other Asian states reconsider their concepts of cultural diplomacy as well. Nowadays Turkey, Brazil, South Africa and other countries show a growing interest in this notion.

The embassies' activities in the sphere of cultural diplomacy are aimed at facilitation of mutual understanding and development of friendly relations among nations. Cultural attachés nowadays must be able to engage with the public. Among their tasks are generalization and analysis of cultural events in the receiving state, preparation of cultural exchanges, supervision of cultural events of the native country and their media coverage. Such attachés prepare summaries of the ambassador's speeches on the events of cultural nature, maintain permanent contacts with local cultural figures etc. Sometimes the appointment of a prominent person in the field of culture for the position of cultural attachés is practiced, however in such cases it is customary to nominate a competent administrator as their assistant within the mission. For example, in October 2015, famous Ukrainian writer and journalist Irena Karpa was appointed as the First Secretary of the Ukrainian Embassy in France on cultural matters [The Ukrainian singer became the first secretary of the Embassy of Ukraine, 2014].

Nowadays the forms of cultural diplomacy are forums, festivals, tours, exhibitions, fairs, days of national language and culture, competitions, contests, congresses, conferences, research and education exchange programs, scholarships and grants, work of foundations, non-governmental organizations, etc. The history of cultural diplomacy includes such unique forms as "ping-pong diplomacy" and "panda diplomacy".

In 2002 Thailand and in 2012 the USA launched "culinary diplomacy for partnership". Under the program more than 80 American cooks travelled abroad to popularize American cuisine, forming the "American Chef Corps". Italy pays a considerable attention to gastrodiploamacy that is a kind of cultural diplomacy. Italians encourage tourists to visit small towns throughout the country by organizing festivities and traditional celebrations dedicated to peculiar local goods. In 2020 the Ukrainian Institute, together with the academic information project "izhakultura" ("food&culture") and the "izhak" Publishing House specializing in the books on the history of Ukrainian gastronomy, prepared a publication about Ukrainian culinary diplomacy as a key instrument of the cultural one. In the same year within the framework of the social network diplomacy of the Embassy of Ukraine to Japan, Ukrainian cuisine was recognized as the most popular topic by the Japanese audience. [Matyash, 2021, p. 232]

The Institutes of cultural diplomacy with their foreign branches, that help to form a positive attitude towards the accrediting state, became diplomatic instruments. Effective development of the Institution of cultural diplomacy can be observed in the practice of Germany (Goethe Institute), France (French -known by international community in order to evoke public interest with the cultural activities. It is getting increasingly difficult to attract foreigners' attention to the national culture in the context of globalization of culture and massive flows of information. The public expects to see cultural production with certain characteristics: it must be bright, clear, relevant and high-tech. Unless the national culture offers interesting material, cultural diplomacy of the state will be ineffective. In such a case diplomats can only count on informing foreign society about the very existence of national culture.

Almost all Europeans cultural institutions transmit to the host country advanced social ideas of their states, which accordingly affect the mutual interest in modern culture. Usually, cultural departments in diplomatic missions prioritize one or another form of art which they support. For

instance, the Czech Center in Kyiv declares the support of young alternative music as a special sphere of its activity.

Japan has a negative experience of promoting national culture among unprepared and uninterested foreign public. Thus, in the early 80s the Japanese authorities launched an active promotion of its traditional culture (Kabuki theater, floral techniques of ikebana, sumo wrestling etc.) in foreign countries with the aim to impress the world with its uniqueness and centuries-old traditions. Some growth of interest to Japan did occur, however it had a limited coverage and quickly disappeared. In the 2000s Japanese diplomats focused on modern popular models (manga comics, anime cartoons, kawaii clothing) in order to gradually bring the foreign audience to realization of the outstanding depth of Japanese culture.

Literary projects that stimulate book publishing and reading are widely spread among the cultural ones. Translation projects constitute a priority in supporting Institutions of cultural diplomacy, as translation itself is a kind of a “bridge” between cultures that allows their representatives to understand each other. In 2020 the Ukrainian Book Institute and the Ukrainian Institute **established the Drahoman Prize to award foreign experts who translate from Ukrainian into other languages of the world. In the same year, the Ukrainian Institute launched “Translate Ukraine” – a program of support of translation for foreign publishers.**

Nowadays the instruments and scope of activities of cultural diplomacy institutes are expanding. Thus, at the beginning of the XXI century the intercultural dialogue acquires topicality, especially on the basis of universal and regional international organizations. Cultural programs on national and multilateral levels are aimed at addressing such controversial questions as social cohesion, problems of inequality, discrimination of national minorities and immigrants, cultural dimension of interfaith issues. The appeal to the problems of environmental protection and hazards of climate change has become a new trend in cultural diplomacy. For example, the Goethe Institute, the British Council, and the Danish Cultural Institute have developed pertinent course of cultural diplomacy.

There is a tendency of rapid growth in the use of Internet resources in cultural activity, especially during the coronavirus pandemic. Such activities of Institutes of cultural diplomacy and embassies as online-events, interaction with mass media, TV and radio companies, and diplomacy through social platforms and networks are widely used. Therefore, the Internet is predominantly used as a tool to expand marketing functions or information activities.

The driving force and the key to implementation of cultural diplomacy are non-governmental actors, namely civil society, expatriate national groups, academic communities, businessmen, journalists, sportsmen. The public sector does not serve as a generator of ideas but as an establishment providing means for their implementation. Nowadays a growing interest to cultural diplomacy is demonstrated by individual cities and regions, particularly, if they position themselves as special administrative units of the state. For instance, Catalonia seeks to expand its own cultural diplomacy by outlining goals identical to those of some countries.

Strengthening of cooperation between cultural institutions is a new trend in cultural diplomacy. Thus, in 2006 the amalgamation of the European Union National Institutes for Culture was established. 36 European cultural institutes from 27 member-states comprise the network. In 2020 the topic “Cultural Relations and Covid-19” was the most relevant among the activities of the EUNIC. This network’s project “House of Europe in Ukraine”, supported by the EU and headed by Goethe Institute, created 4 new grant patterns to finance Ukrainian culture during the pandemic, particularly, with the view to direct creativity to the digital sphere.

Conclusion. Thus, new areas of cultural diplomacy encompass more and more countries, regions, cities, and communities. At the same time, there is a transition to multilateral cooperation in cultural diplomacy; the content of programs is acquiring a more thematic nature and is supplemented with broader goals; the role of the Internet is growing which allows to communicate with public in a more interactive way, as well as to facilitate a greater public involvement while working in the realm of cultural diplomacy.

Nowadays cultural diplomacy is one of the effective and significant means of implementation of the foreign policy strategy of any state that claims to play a significant role in the system of modern international relations. In the case of diplomatic activity, it fosters the use of the instruments of cultural influence to achieve interstate understanding, peace and stability, as well as to promote its national interests on the international arena through overcoming cultural barriers.

References

1. Barghoorn F.C. *The Soviet Cultural Offensive. The role of Cultural Diplomacy in Soviet Foreign Policy*. Princeton, 1960.
2. Cummings M.C. *Cultural Diplomacy and the United States Government: a Survey*. Center for Arts and Culture, 2003. [Electronic resource]. – Access mode: <http://www.culturalpolicy.org>.
3. Cull Nicholas J. *Public Diplomacy: Lessons from the Past*. FIGUEROA PRESS, LA, 2009 // [Electronic resource]. – Access mode: <http://uscpublicdiplomacy.org/publications/perspectives/CPDPerspectivesLessons.pdf>
4. Nye Joseph S., Jr. *Public Diplomacy and Soft Power*. // *The ANNALS of the American Academy of Political and Social Science*, 2008
5. Глібова С. О. Культурна дипломатія Італії [Glebova S. Cultural diplomacy of Italy] // *Науковий вісник Дипломатичної академії України*. Випуск 23. Зовнішня політика і дипломатія: традиції, тренди, досвід. Частина II. Серія «Політичні науки» / За заг. ред. В. Г. Ціватого, Н. О. Татаренко. – Київ, 2016. – с. 88– 95.
6. Клименко В. Культурна дипломатія: елегантний тандем мистецтва і політики. [Klymenko V. Cultural diplomacy: an elegant tandem of art and politics] // [Electronic resource]. – Access mode: <https://www.culturepartnership.eu/ua/article/cultural-diplomacy>
7. *Культурна дипломатія: навч. посібник / за заг. ред. І.Б. Матяш, В.М. Матвієнка*. [Cultural diplomacy: textbook manual / for general ed. I.B. Matyash, V.M. Matvienko]; Інститут міжнародних відносин КНУ імені Тараса Шевченка; Наукове товариство історії дипломатії та міжнародних відносин. Київ: ДП «ГДП», 2021 - 252 с.
8. *Міжнародний форум культурної дипломатії*. [International Forum of Cultural Diplomacy] // [Electronic resource]. – Access mode: https://www.facebook.com/watch/live/?v=1256758961369765&ref=watch_permalink
9. Най Дж. Американская «мягкая сила» в эпоху Трампа. [Nai J. American «soft power» in the Trump era]. [Electronic resource]. // Access mode: <https://m.day.kyiv.ua/ru/article/mirovye-diskussii/amerikanskaya-myagkaya-sila-v-epohu-trampa>
10. Онух Є.: «Культурна дипломатія — це продаж іміджу країни засобами культури». [Onuch J.: «Cultural diplomacy is the sale of the country's image by means of culture»] // [Electronic resource]. – Access mode: https://lb.ua/culture/2015/11/25/321735_iezhi_onuh_kulturna_diplomatiya_tse.html
11. *Політика культурної дипломатії: стратегічні пріоритети для України: зб. наук.-експерт. матеріалів / за заг. ред. О. П. Розумної, Т. В. Черненко*. [The policy of cultural diplomacy: strategic priorities for Ukraine: coll. scientific expert materials / for general. ed. O.P. Rozumna, T. V. Chernenko] – К. : НІСД, 2016. – 92 с. - К. : NISD, 2016. - 92 p.]. // [Electronic resource]. – Access mode: https://niss.gov.ua/sites/default/files/2016-10/kult_dyp-cd7f1.pdf
12. Ржевська Н. Ф. *Культурна дипломатія України: сучасний стан та перспективи* / Н.Ф. Ржевська. [Rzhevskia N.F. Cultural diplomacy of Ukraine: current state and prospects / N.F. Rzhevskia]. // [Electronic resource]. – Access mode: http://journals.iir.kiev.ua/index.php/pol_n/article/view/3377
13. *Українська дипломатична енциклопедія: у п'яти томах. Т. 2 / Голова редкол. Д.В. Табачник*. [Ukrainian diplomatic encyclopedia: in five volumes. Vol. 2 / Editor-in-Chief. DV Tabachnyk]- Харків: ФОЛІО, 2013. - 494 с.
14. *Українська співачка стала першим секретарем посольства України*. [The Ukrainian singer became the first secretary of the Embassy of Ukraine] // Access mode: [Electronic resource]. https://lb.ua/culture/2015/10/14/318442_karpa_vozglavila_kulturniy_tsentr.html

15. Шейко В. Бюджетне обнулення: українська культурна дипломатія на порозі колапсу [Sheyko V. Budget zeroing: Ukrainian cultural diplomacy on the verge of collapse]. [Electronic resource]. // Access mode: https://lb.ua/culture/2020/03/31/454152_byudzhethne_obnulennya_ukrainska.html
16. [Electronic resource]. Access mode: <https://houseofeuropa.org.ua/en>
17. [Electronic resource]. Access mode: <https://ui.org.ua/drahoman-prize>
18. [Electronic resource]. Access mode: <https://ui.org.ua/mission/>

УДК 327.3+061.2

SPORT AS A MEETING FIELD OF SOCIO-POLITICAL DEMANDS OF THE INTERNATIONAL COMMUNITY

СПОРТ ЯК ПОЛЕ РЕАЛІЗАЦІЇ СОЦІАЛЬНО-ПОЛІТИЧНИХ ЗАПИТІВ МІЖНАРОДНОЇ СПІЛЬНОТИ

Polishchuk K. V.

Ph.D (Political Science), Associate professor at the Department of international relations and diplomatic service, Ivan Franko National University of Lviv. E-mail: kostyantyn.polishchuk@lnu.edu.ua

Поліщук К. В.

кандидат політичних наук, доцент кафедри міжнародних відносин і дипломатичної служби, Львівський національний університет імені Івана Франка, E-mail: kostyantyn.polishchuk@lnu.edu.ua

Olishevska V. D.

Ph.D student at the Department of international relations and diplomatic service, Ivan Franko National University of Lviv. E-mail: volishevska@gmail.com

Олішевська В. Д.

аспірантка кафедри міжнародних відносин і дипломатичної служби, Львівський національний університет імені Івана Франка. E-mail: volishevska@gmail.com

Abstract. *The importance of sport and sports entities as active factors of the international agenda formation is proven in this article. The arguments for replacing the classic actors of the world arena with non-standard units, such as individual athletes and sports teams and organizations are given in this context. While emphasizing the fact that they are becoming mouthpieces and lobbyists for specific demands of society more and more often, the analysis of such a phenomenon of politicization and socialization of actors as well as the actors' tools in such activities as symbols, narratives and physical space is carried out as well.*

The main research topics of most scholars who focus on the mentioned relationship between politics and sports are nationalism, propaganda, the struggle of ideologies and power through the prism of politics in sport whereas this article also highlights the use of sport as a tool of communication and local identity strengthening. Some of the analyzed sources concern the fixation of events and personalities (Guillem Balague, Dave Zirin, Franklin Foer), while others tackle with philosophical and anthropological issues (Zygmunt Bauman, Erin Tarver, Christopher Gaffney), thanks to which a sufficient level of this phenomena is supplied (especially these are American and British researchers) as well as the need for a multidisciplinary approach to the choice of methodology and areas of analysis is outspoken. The aim of the article is not only to study the sources that shed the light on this issue, but also to give the international (Olympic Games, Mohammed Ali, Marcus Rashford, etc.) and Ukrainian examples (FC «Karpaty») from history and the present.

The importance of analyzing fans' narratives (banners, songs, perception of themselves and others, etc.) and symbolic objects of the urban landscape (stadiums and sports infrastructure in general) is emphasized in order to understand the trends in society that fans and objects represent.

Key words: *structuralism, identity, localization, geodeterminism, sports diplomacy*

Анотація. *Обґрунтовується значення спорту та спортивних суб'єктів як активних факторів формування порядку денного міжнародних відносин. У такому контексті наводяться аргументи заміщення класичних акторів світової арени більш нестандартними одиницями, як-от окремі атлети та спортивні команди й організації. Підкреслюючи той факт, що вони все частіше стають рупорами та лобістами конкретних запитів соціуму, наводиться аналіз такого феномену політизації й соціалізації акторів, а також зазначаються інструменти суб'єтів у такій діяльності, як-от символи, нарративи та фізичний простір.*

Зважаючи на те, що основними темами досліджень більшості науковців, які фокусуються на співвідношенні політики та спорту, є націоналізм, пропаганда, боротьба ідеологій і міці через призму політики в спорті, в статті виокремлюється ще й така тема як використання спорту як засобу комунікації й формування локальної ідентичності. Частина проаналізованих джерел стосувалася фіксації подій і персоналій (Гільєм Балате, Дейв Зірін, Франклін Фоер), коли інша – філософсько-антропологічних засад (Зигмунт Бауман, Ерін Гарвер, Кристофер Гаффні), які дозволяють стверджувати про достатній рівень розкриття проблематики іноземними дослідниками (в основному американськими та британськими), а також про необхідність мультидисциплінарного підходу до вибору методології й сфер аналізу. Метою ж статті є не лише вивчення джерел зазначеної тематики, але й наведення міжнародних (Олімпійські ігри, Мохаммед Алі, Маркус Решфорд і т.ін.) та українських прикладів (ФК «Карпати») із історії та сьогодення.

Підкреслюється важливість аналізу нарративів уболівальників (банери, пісні, бачення себе та інших, тощо) і символічних об'єктів міського ландшафту (стадіони та спортивна інфраструктура загалом) для розуміння тенденцій, що виявляються властивими всьому соціуму, що вболівальники та об'єкти представляють.

Ключові слова: *структуралізм, ідентичність, локалізація, геодетермінізм, спортивна дипломатія.*

Introduction. In 2005, boxer Mohammed Ali received the Presidential Medal of Freedom, America's highest civilian award – thanks to his long struggle for the rights of the black population, against involvement in the Vietnam War and against the prejudices towards Islam. In 2007, Ivorian footballer Didier Drogba became the UN Goodwill Ambassador and received the Beyond Sport Humanitarian Award for his role in slowing down the civil war in his native Côte d'Ivoire. In 2020, Megan Rapinoe, American football player, was named one of the most significant figures of the year according to TIME: «Rapinoe's influence extends far beyond the playing field. In our age when athletes are still required to remain primarily athletes, she is not silent, advocating for LGBT+ rights and actively advocating a feminist stance». These and hundreds of other examples provide researchers with a basis for a reasoned discussion on professional sport's ability to multiply the points of its entry into the socio-political sphere. Whether it is another aggravation of the Ukrainian-Russian relations due to the picture of the Ukrainian full map on the yellow and blue kit of the national football team or corruption scandals during the organization of top events by international sports unions (such as the 2022 FIFA World Cup).

The purpose of research. The key aim of this article is to give arguments for the widening of the actors' field in the international relations, where athletes, teams and sport discourse in general are gaining more and more impact on the political and social agenda. That's why the authors strive to emphasize the role of sport not only as the tool of the soft power, but as the factor of salvation or exacerbation of social and political issues.

Scientific methods applied . While conducting this research the authors used the interdisciplinary approach due to the novelty of such an issue as sport diplomacy and athletes'

impact on social and political agenda of their states and the world in general. That's why the materials of foreign sociologists, sports journalists, athletes' memoir, anthropologists and others were studied thoroughly. The most prominent ideas were found in works of the Polish philosopher Zygmunt Bauman, who gives his explanation for the current world situation, where states can't be taken as powerful actors of the international relations anymore. He also sees other magnets for the socialization and politicization of inhabitants such as neo-tribes at work, group of interests and other factors of localization. Erin Tarver, the American philosopher of sport, helps to understand the mechanisms of sport fandom formation as well as its impact on the patriotic identity crystallization. The thoughts of Ralph Wilcox, the American researcher, are also useful in seeing sports infrastructure's influence on cities and local areas especially, their economics and development in general.

Results. Thanks to the conducted research it has been confirmed that athletes now use sports to change the world, as they get the Peace Prize instead of the Match Player Award and recognition for their impact on the local community instead of new cup titles. Moreover, individual players and teams become the physical embodiment of the values and character of the whole society they represent, thus giving it a strong identification which is based on their initiatives and activities outside of sport. That is why it is important for scientists, firstly, continue to analyze cases when athletes have become both a mouthpiece and a lever of influence on the socio-political agenda domestically and internationally as well as to build the theoretical foundations for such a system. And secondly, to recognize the multidimensionality of such a sphere as sport that brings it into the field of international relations and provides with the functions of socialization and politicization.

The phenomenon of sport going beyond its borders shows, on the one hand, the consolidation of new actors in the field of international relations, on the other, the fragmentation and equalization of these actors. It seems that the individual level of the subjects of international relations is becoming stronger, because in modern times, when the institution of the state is less important for carrying out the international relations some even non-political personalities are able to hold digital tools and methods of soft power and have a real impact on the domestic and foreign policies of entire countries. Zygmunt Baumann calls this process «a reorientation to the realm of individual politics of life»: «An open and increasingly defenseless nation-state is constantly losing power, evaporating into the global space, and subsidizing its political acumen and skill to individual men and women» [Bauman, 2013: 42]. At least this is manifested in the ability of individuals to pay attention to the problem before forcing its solution. Moreover, in this process, they are also able to unite quantitatively significant masses of people around themselves. Therefore, in such processes, the group level of interaction in international relations requires special attention, because aimed movements, activist groups and other socio-political associations have a real impact not only on the leaders of their own countries, but also on the global level of nations [Gebhard, 2017: 2]. In such a situation of national and state institutions' blurring there is a need to replace the former elements. Obviously, sport is not the only magnet here, but its importance for gathering around itself both social movements and for providing a platform for the effective struggle of worldviews can not be underestimated. In other words, athletes, teams and their public activities can easily help shape the identity of the population, consolidate the values of entire nations, persuade influential people to make concrete decisions and simply simplify the lives of the population by upholding their rights. Similar phenomena could be seen, for example, during the active phase of Europe's industrialization, when participation in or support for local football clubs contributed not only to the socialization of the urban population but also to self-awareness as a national entity with – the club became the material embodiment of «us» and «ours» and of these things that «we» are ready to defend in opposition to «them». This effect is especially evident with cheering for national teams in international competitions, because when nations are still in the process of formation, football can really become an amplifier of identity [Brand & Niemann, 2014: 46]. The personal observations of Joao Nuno Coelho, a Portuguese sociologist, give the basis for the sport fandom of such a kind: «I would never have sung or known our national anthem if it wasn't for football» [Brown, 1998: 158].

Researchers attribute this to the fact that positive identification, aimed at specific athletes and teams, works with the imagination of people who associate themselves and their stories with them – as if they were heroes, fictional characters of epic narratives. In turn, this tells more about the society itself thanks to demonstrating what character traits they consider acceptable and with which they want to associate themselves in the eyes of others [Tarver, 2017: 157]. The words of sports psychologist Liliana Grabin about her compatriots, world-famous footballers Diego Maradona and Lionel Messi, best illustrate the mentioned phenomena: «When you say 'I'm Argentinian', you actually hear 'Maradona' and now 'Messi.' This is Argentina. Football gives an understanding of self-sufficiency that allows us to feel firmly on the ground» [Balague, 2019: 232].

The following are two levels the analysis of which will contribute to a comprehensive understanding of the aforementioned process of sport going beyond its original boundaries of influence:

- level of symbols and narratives – visual, verbal and other intangible links serve as tools in building the way of sport spreading beyond its borders. For example, Joseph Bradley, a British researcher on the interaction of sociology, politics and sports, emphasizes the importance of analyzing the songs and chants of sports fans as they are part of their communication as well as of set of identities and characteristics of society [Brown, 1998: 203]. Indeed, thanks to a careful study of the mood of the stands and fan groups the prevailing trends and opinions of society can be understood – for example, the city of Liverpool and its eponymous football club. The population of this British city, as in most port areas, has been perceiving itself as different (call them by «Scousers»), separated from everybody else, which in turn does not lead to outright separatist ideas, but clearly draws boundaries with the rest of their own countries. «We are not England, we are Scouseland», says the banner of the club's oldest grandstand. At the same time, here is another example of the individual influence in this context of symbols and narratives that emphasizes the Scousers' thought about their own exclusivity. «Having being faced with the critical choice I had to pick only one team – either to stop playing for ‚Liverpool‘ or for the England national team. I decided to neglect the national team. I was born at ‚Anfield‘, and I'm going to die here» [Gerrard, 2015: 265], says the Liverpool native, former club captain and legend Steven Gerrard. Continuing such precedents let's mention the Catalan football coach Josep Pep Guardiola who not only openly expressed his support for the expansion of Catalonia's independence during the leading FC «Barcelona», but also continued to symbolically express his views outside Spain as well. Thus, Guardiola publicly wore a yellow ribbon at the matches of his new British club, expressing the support of political prisoners-fighters, his compatriots, for Catalan independence.

- physical space – the ability of sports infrastructure to carry out broader functions for urban space and its population. For example, continuing the already mentioned case with FC «Barcelona» it should be noted that its stadium «Camp Nou» has become a physical and social space of resistance in the middle of the 20th century and almost the only place where Catalans could speak their language fluently and show dissatisfaction with politics of Madrid [Foer, 2010: 195]. The stadium as a symbolic and physical magnet is of paramount importance to fans as it defines the surrounding area and communicates its presence about the history, significance, strength and ideological affiliations of the rest of the population [Gaffney, 2008: 25]. That is why FC «Barcelona» which has been the embodiment of Catalonia's struggle for independence from Spain for decades or a weapon of a country without its own statehood is impossible without its material representation in the form of a stadium [Foer, 2010: 195]. Next the ability of sports areas to promote socialization and regeneration of the environment will be mentioned. With this in mind the European Union built part of its regional policy in the 90s of the 20th century allocating millions of euros for the construction of sports infrastructure in economically weak peripheries. That is why a number of projects (from centers for international competitions to local swimming facilities and cycle tracks) which restrained labor emigration and investment decline were included in the European regional development programme on a par with other fields of economy aimed at strengthening the regions [Matthews & Henry, 2014: 228].

It turns out that sport does leave its mark on the physical structure of the city and on civic consciousness – cultural, political and economic attitudes, collective values and identities, relations between people and space [Wilcox, 2012: 1]. That is why a brief historical analysis to provide specific examples that confirm the above mentioned opinion about the broad functions of the sports sphere and its actors will be given further. The influence of sport on the formation and consolidation of political and national consciousness, which has access not only to the national but also to the international level, can be seen in the following phenomena:

1) FC «Karpaty» has been representing the city of Lviv for decades. «Karpaty» in Soviet times were known for their ethno-national localism, which was manifested not only in the origin of the players of that time – almost all of them were from Lviv or the surrounding area – but also in the political position, which was then «typical» attitude of Western Ukraine to the USSR [Foer, 2010: 150]. A former player and captain of the team in the 60s and 70s of the 20th century Ihor Kulchytsky recalls: «At that time, ‚Karpaty‘ were probably the only team where almost everyone spoke Ukrainian» [Lyaska, 2020: 17]. «When Karpaty won the USSR Cup (a sensational victory for a team from the lower league in 1969), the stands in Moscow sang ‚Cheremshina‘, because people perceived the club as something native, as part of the Ukrainian», – a fan Yuri Gerun quotes his grandfather [Lyaska, 2020: 74]. You can still hear football songs based on «Lenta za lentoyu» (song of Ukrainian rebels), national salutes and slogans as well as the use of the Ukrainian symbols which are associated with national movements of the Ukrainians (for example, red-black flags, portraits of Stepan Bandera, etc.). One of the fans, Rostislav Shiyko, emphasizes: «Fans are not only interested in football and support their team, but also have a clear ideology. The fan has always positioned himself as a patriot» [Lyaska, 2020: 73]. Respondent Oleh Soldatenko, one of the organizational leaders of «Karpaty» fan sector, sees the basis for such behavior in the freedom provided by the feeling of belonging to the team. Back in the 1990s, it was at the stadium that they could loudly declare Ukraine's independence and call for the freedom of its people without foreign invasions. Moreover, after analyzing the photo archives of the club, the authors of this study were able to find evidence of clear socio-political views of «Karpaty» fans. In recent years, banners have appeared in the stands in Lviv with support / protests on current events in Ukraine such as «Freedom to Pavlyuchenkos» (protests in 2012-2013 on the unfounded accusation of Pavlyuchenkos in the murder of a Kyiv judge), commemoration victims of the Holodomor, the position of condemnation of the activities of the political party «Party of Regions», including banners against politician Dmytro Tabachnyk, commemoration of the anniversary of Taras Shevchenko, etc.

2) Mohammed Ali is one of the most famous and influential persons in the history of boxing. By combining his success in sports, oratory skills and ability to influence on the situation with the rights of America's black people, Ali not only became the archetype of the passionate rebel of the 1960s [Zirin, 2008: 238], but also walked along with the political and social leaders such as Martin Luther King and Malcolm X. The athlete described his own situation as follows: «Where would I be if I didn't make the crowd pay attention? I would be a miserable black man in my hometown, washing the windows and knowing ‚my place‘» [Zirin, 2008: 135]. Numerous public speeches in support of the basic rights and freedoms of his population, participation in political demonstrations, educational lectures at universities and constant pressure on politicians – this is why Ali has become a critical symbol of the transformation of the policy of «black power». «He refused to be afraid, thus giving courage to those like us», – says his black compatriot [Zirin, 2008: 135]. At the same time, it is worth mentioning the boxer's outspoken statements against the foreign policy of the United States and its allies as Ali opposed the American war in Vietnam, questioned the recruitment process of American soldiers and became a symbol of anti-colonial movements at the time with supporting the African culture and visiting the continent's countries such as Ghana, Nigeria and Egypt [16]. The modern case of Colin Kaepernick, an American athlete who gained international influence through his open stance against the US government, should be mentioned here as well. Presidential candidate at the time Donald Trump described this American football player as one who should be expelled from the stadium and fired in general as since September 2016 Kaepernick

had begun kneeling during the playing of the national anthem at the start of the match. With such a gesture he demonstrated own views on the situation in the American state: «I will not show respect for the symbols of a country that oppresses blacks and people with different skin colours. It's more than football for me». Following this gesture of Martin Luther King, which became widespread in the 1960s, more and more athletes were kneeling down in disapproval of police harassment against black people. This wave of peaceful protests gained even more strength with the death of George Floyd in May 2020, which led not only to mass riots around the world, but also to the renewal of the Black Lives Matter campaign, which was followed by professional sportsmen and women outside the United States – footballers, baseball and basketball players still continue to directly express their views which undoubtedly relate to the political sphere.

3) Another prominent person worth mentioning in this context is Marcus Rashford, the English footballer, who became best known to the general public at the start of the 2020 COVID-19 pandemic. It was then that millions of poor people in Britain had problems with food supplies, especially schoolchildren from the most needy families who would lose their main source of food due to school shutdown. By drawing attention to this issue through his own social media, Marcus Rashford was able to help ensure that 21 million meals were delivered to hungry children and families in Britain. Moreover, Rashford was able to influence a change in the government's policy when it did not plan to continue providing food during the holidays. That's why the banners with the 'football' score of victories and defeats started to appear: «Rashford 2 – Boris [Johnson] 0». Now the footballer is dealing with the problem of reading and kids' access to books as well with the issue of racial injustice. His influence is highlighted by such awards as the BBC Athlete of the Year, Man of the Year by several British and international unions and the Order of the British Empire.

4) «Old Firm» is a classic football derby confrontation in Glasgow. This phenomena is considered one of the oldest in the world, originating in the late 19th century in Scotland, when the division of Irish and Scots took a new turn – Republican Catholics and Protestant Loyalists founded their football clubs. The confrontation between FC «Celtic» and FC «Rangers» has been considered bigger than football issue ever since as even wearing the club's symbols demonstrates a person's religious and political views. There were more than 400 matches between the two teams during the whole period and the former Scottish police chief, Les Gray, described the atmosphere in 2011 as follows: «What happens on the pitch is reproduced throughout Scotland, on the streets, in pubs, in homes. When you go home, you can hear the police and ambulances sirens everywhere. It's like a war zone. Anyone who goes out to the streets after this derby risks their life». The case of the hooligan group «Bridgeton Billy Boys» is significant in this context too – having being the largest and strongest gang in Britain they supported FC «Rangers». In the 1920s and 1930s, they were not only involved in football events, but also took requests from the British Conservative Party as for destabilizing their left-wing rallies as well as controlled significant cash flows throughout the whole region. Here is an excerpt from their song which is still inextricably linked with the «Rangers» and symbolizes the division of Glasgow:

«Hello, hello

We are the Billy Boys

Hello, hello

You'll know us by our noise

We're up to our knees in Fenian blood

Surrender or you'll die

The Brighton Derby Boys»

The line «We're up to our knees in Fenian blood» mentions the members of the Irish Revolutionary Brotherhood, who fought for the liberation of Ireland from British rule and quite clearly demonstrates their perception of 'another'. Some experts see such a split between the two groups in Glasgow as a struggle for power in a city where identification takes place at the level of

approving one group and totally rejecting the other. In other words, this view defines the phenomenon of «Old Firm» in and out of the stadium and gives it the form of tribalism.

5) The Olympic Games that may be seen as an apolitical international platform but with the political views and social demands being openly demonstrated at the same time. The impact of the Olympiad on general culture, urban development and sports ethics in general is difficult to overestimate – from the invention of calendar by the ancient Greeks to the world art (drawings on vases and utensils, statues glorifying winners, understanding and depiction of human body) [Baker, 1988: 23]. With a massive audience and attention from the world decision-makers countries-participants and individual athletes have used the Games as an opportunity to express their views for centuries, e.g. numerous boycotts of Socialist and Western bloc countries during the Cold War or Egypt's and its allies' withdrawal of competition due to the West's position in the Suez Crisis. Now let's turn to the following trends that most often emerge during the Olympics in the field of socio-political activities:

- some of the symbolic protests of individual teams and athletes on political issues:
 - 1908, London – the Russian Empire insisted on refusing to display the Finnish flag while the British Empire did the same towards the Irish one. Two positions could be explained by the internal conflicts with these peoples who did not recognize the power of empires;
 - 1948, London – World War II losers, Germany and Japan, didn't even receive invitations to the Games. The same was done with the losers-states after the First World War;
 - 1956, Melbourne – The Netherlands, Spain, Switzerland withdraw from the competition to demonstrate their disapproval of the Soviet invasion to Hungary;
 - 2018, Pyeongchang – athletes from South and North Korea paced together at the opening ceremony of the Winter Games. The symbolic gesture appeared as the result of a new round of relations, complemented by the «Olympic diplomacy» from the Korean and the American politicians as they met several times during the Games and tried to take steps to improve relations between Seoul and Pyongyang;
 - 2021, Tokyo – pressure being made by the Belarusian government on their own athletes during the Games (for example, the removal of Timanovskaya from participation right in the middle of the games and her persecution due to criticism of the Belarusian committee);
 - 2022, Beijing – Japan didn't not send its athletes to the competition because the host country systematically violated human rights and had other conflicts with Tokyo. The United States, Britain, Canada and Australia have not delegated their officials because of the same problems on human rights in China;
- some of the symbolic gestures of individual teams and athletes on social issues:
 - 1968, Mexico City – the American athletes saluted with one of the gestures of «black power» on the winners' podium in support of the rights and freedoms of the black population of their country [18];
 - 2016, Rio de Janeiro – the first appearance of the refugee team at the Olympics. Ten athletes from Syria, Congo, Ethiopia and Sudan gathered to emphasize the migration crisis that was actively sweeping Europe at the time;
 - 2021, Tokyo – mass protests of the Japanese citizens against the Summer Games in their capital. 43% of the population called for the abolition of the Olympics in the context of the COVID-19 pandemic, accusing their government of carelessness and weak position in overcoming the virus within the country [11];
 - 2021, Tokyo – footballers and players of the national teams of New Zealand, Great Britain, Sweden, the United States and other countries kneeled down before the start of matches in protest against racism (a gesture that gained its spread again after the killings of black people by the police officers in America);

Conclusions. Thus, it should be concluded that at the current stage of international relations development, when the role of non-political actors and social movements is only growing on the world stage, sports actors receive not only the tools of politicization and socialization, but also leave their mark in the urban landscape and in the construction of symbols and narratives of the whole population – sports fandom, symbols of football clubs, chants and other verbal and visual objects contribute to the identity's building as well as the feeling of local patriotism. With such functions sport also becomes a mean for political and social requests giving more space for sport diplomacy at the same time – sport events, athletes, teams and sport infrastructure are easily used to foster relations between nations and to change the general agenda.

References

1. Baker, W. (1988). *Sports in the Western World*. University of Illinois Press
2. Balague, G. (2019). *Messi*. Vydavnytstvo Starogo Leva
3. Bauman, Z. (2013). *Liquid times: Living in an Age of Uncertainty*. Krytyka
4. Brand, A. & Niemann, A. (2014). Football and national identity in Europe. *More than a game: sports, society and politics*, 43-53. <https://www.eusportdiplomacy.info/files/2-more-than-a-game-sports-society-and-politics-pdf-compressed.pdf>
5. Brown, A. (1998). *Fanatics! Power, identity and fandom in football*. Routledge
6. Crompton, J. (2001). Public subsidies to professional sport facilities in the USA. *Sport in the city: the role of sport in economic and social regeneration*, 15-35. <https://archive.org/details/sportincityroleo0000unse/page/n5/mode/2up>
7. Foer, F. (2010). *How soccer explains the world*. HarperCollins
8. Gaffney, C. (2008). *Temples of the Earthbound Gods*. University of Texas Press
9. Gebhard, C. (2017). One world, many actors. *E-International Relations*, 32-46. <https://www.e-ir.info/publication/beginners-textbook-international-relations/>
10. Gerrard, S. (2015). *My story*. Nash format
11. *Here's Why Tokyo Is Hosting the Summer Olympics Despite COVID-19* (2021, June 28). Council on Foreign Relations, from <https://www.cfr.org/in-brief/heres-why-tokyo-hosting-summer-olympics-despite-covid-19>
12. *How Marcus Rashford took FareShare to the top of the national agenda* (2021, January 15). Third Sector, from <https://www.thirdsector.co.uk/marcus-rashford-took-fareshare-top-national-agenda/communications/article/1704564>
13. *Japan PM will not attend Beijing Winter Olympics opening ceremony* (2021, December 16). The Guardian, from <https://www.theguardian.com/sport/2021/dec/16/japan-pm-will-not-attend-beijing-winter-olympics-opening-ceremony>
14. Lyaska, V. (2020). «Karpaty»: istoriya spravzhn'oyi komandy. Papuga
15. Matthews, N. & Henry, I. (2014). Sport, leisure and European Union regional policy. *More than a game: sports, society and politics*, 43-53. <https://www.eusportdiplomacy.info/files/2-more-than-a-game-sports-society-and-politics-pdf-compressed.pdf>
16. *Muhammad Ali: A Transcendent Life: Social Justice And Civil Rights Icon*. UofL Libraries, from https://library.louisville.edu/ali/SocialJustice_CivilRights
17. *Pep Guardiola charged by FA for wearing yellow ribbon in support of Catalan independence*. (2018, February 23). Independent, from <https://www.independent.co.uk/sport/football/premier-league/pep-guardiola-catalan-independence-fa-yellow-ribbon-manchester-city-a8225591.html>
18. *Politics no stranger to Olympic games* (1984, May 9). The Montreal Gazette, from <https://news.google.com/newspapers?id=eVwxAAAIBAJ&pg=6019,4341675>
19. Tarver, E. (2017). *The I in team, Sports Fandom and the Reproduction of Identity*. The University of Chicago Press
20. *Taking a knee: Why are NFL players protesting and when did they start to kneel* (2020, June 9). Independent, from <https://www.independent.co.uk/news/world/americas/us-politics/taking->

a-knee-national-anthem-nfl-trump-why-meaning-origins-racism-us-colin-kaepernick-a8521741.html

21. *The bitter divide* (1999, June 2). BBC, from http://news.bbc.co.uk/2/hi/uk_news/359039.stm
22. *Top cop demands an end to Old Firm 'madness' after latest demolition derby between Rangers and Celtic.* (2011, March 3). Daily Mail, from <https://www.dailymail.co.uk/sport/football/article-1362498/Top-cop-slams-Old-Firm-madness-latest-demolition-derby-Rangers-Celtic.html>
23. *Who were the real Billy Boys, the Glasgow gang in Peaky Blinders?* (2019, October 8). HistoryExtra, from <https://www.historyextra.com/period/20th-century/who-billy-boys-fullerton-peaky-blinders-glasgow-gang/>
24. *Why is there a Refugee Olympic Team?* (2021, July 22). International Rescue Committee, from <https://www.rescue.org/article/why-there-refugee-olympic-team>
25. Wilcox, R. (2012). *Sporting Dystopias: The Making and Meanings of Urban Sport Cultures*. SUNY Press
26. *Will South Korea's Olympic Diplomacy Last?* (2018, March 2). Council on Foreign Relations, from <https://www.cfr.org/expert-brief/will-south-koreas-olympic-diplomacy-last>
27. *Women soccer players take a knee in protest of racism at Tokyo Olympics* (2021, July 23). TODAY, from <https://www.today.com/news/megan-rapinoe-alex-morgan-soccer-players-take-knee-protest-tokyo-t226302>
28. Zirin, D. (2008). *A people's history of sports in the United States: 250 years of politics, protest, people, and play*. The New Press.

СУЧАСНА СИСТЕМА МІЖНАРОДНОГО ПРАВА

УДК 341.171

IMPLEMENTATION OF EU STANDARDS ON PARENTAL LEAVE IN EU MEMBER STATES AND UKRAINE

СТАН ВИКОНАННЯ СТАНДАРТІВ ЄС ЩОДО БАТЬКІВСЬКОЇ ВІДПУСТКИ В ДЕРЖАВАХ-ЧЛЕНАХ ЄС ТА УКРАЇНІ

Sviatun O.

PhD in Law, Associate Professor, Associate Professor of the Chair of Comparative and European Law, Expert of EU Law of the Jean Monnet Center of Excellence of the Educational and Scientific Institute of International Relations of Taras Shevchenko National University of Kyiv, Ukraine. E-mail: pep.sov@clouds.iir.edu.ua.

Святун О.В.

Кандидат юридичних наук, доцент, доцент кафедри порівняльного і європейського права, експерт з права ЄС Центра досконалості Жана Монне служби Навчально-наукового інституту міжнародних відносин Київського національного університету імені Тараса Шевченка. E-mail: pep.sov@clouds.iir.edu.ua.

Annotation. *The article is devoted to the analysis of the legal nature of the implementation mechanism of the new Council Directive 2019/1158 on work-life balance for parents and carers in EU Member States and compliance of the Ukrainian Legislation with the provisions of this Directive. It is noted that the Directive (EU) 2019/1158 repealed Directive 2010/18/EU and should be transposed into the legal system of Ukraine according to the Association Agreement. The provisions of the Directive 2019/1158 should become legally binding in all EU Member States by August 2022 but as of January 2022 only 4 States have submitted information to the European Commission regarding their transposition measures.*

Nevertheless, it is underlined that the current legislation in the majority of the EU Member States corresponds to the provisions of the Directive 2019/1158 and sometimes is even more favorable for parents than it is provided by the Directive.

Special attention is paid to the assessment of the Ukrainian efforts to bring national legislative provisions in compliance with the EU standards and requirements of the EU-Ukraine Association Agreement.

Key words: *European Union, work-life balance, parental leave, paternal leave, social policy, Association Agreement, implementation.*

With the support of the Erasmus+ Programme of the European Union within the Jean Monnet Centre of Excellence Project № 611625-EPP-1-2019-1-UA-EPPJMO-CoE “Advancing European Studies in Ukraine: Interdisciplinary Approach”.

Анотація. *Стаття присвячена аналізу правової природи механізму імплементації нової Директиви Ради (ЄС) 2019/1158 про збалансованість службових та сімейних обов'язків для батьків і опікунів у державах-членах ЄС та відповідності законодавства України положенням Директиви. Зазначається, що Директива 2019/1158 скасувала Директиву 2010/18/ЄС і має бути транспонована до правової системи України відповідно до Угоди про асоціацію. Положення Директиви 2019/1158 мають стати юридично обов'язковими для всіх держав-членів ЄС до серпня 2022 року, але станом на січень 2022 року лише 4 держави надали Європейській комісії інформацію щодо своїх заходів із транспозиції.*

Втім, зазначається, що чинне законодавство більшості держав-членів ЄС відповідає положенням Директиви 2019/1158, а іноді є навіть більш сприятливим для батьків, ніж це передбачено Директивою.

Особливу увагу приділено оцінці зусиль України щодо приведення національних законодавчих положень у відповідність до стандартів ЄС та вимог Угоди про асоціацію між Україною та ЄС.

Ключові слова: Європейський Союз, баланс між професійним та особистим життям, відпустка по догляду за дитиною, батьківська відпустка, соціальна політика, Угода про асоціацію, імплементація.

За підтримки програми Еразмус+ Європейського Союзу в межах проекту Центру досконалості Жана Моне №611625-EPP-1-2019-1-UA-EPPJMO-CoE «Поглиблений розвиток європейських студій в Україні: міждисциплінарний підхід».

Target setting. Promoting equality between men and women is one of the overarching goals of the European Union, enshrined in Article 8 of the Treaty on the Functioning of the European Union, and the key principle of its social policy [European Union, 2012]. In turn, one of the priorities in achieving gender equality at the European level is the balance of work and family life which also contributes to the achievement of other important EU goals, in particular, sustainable and inclusive development.

The aim of the article. The aim of this article is to highlight the theoretical and practical problems of the implementation of the of the new Council Directive 2019/1158 on work-life balance for parents and carers in EU Member States and compliance of the Ukrainian legislation with the provisions of the Directive. The effective activities of Ukrainian authorities in the abovementioned sphere need special coordination mechanism and revision of the existing legal provisions with the view of bringing these provisions in compliance with the Directive.

Analysis of latest researches and publications. The issues of parental leave were elucidated mainly in the latest works by N. Iolkina [Iolkina N.: 2020], B. Janta [Janta B.: 2018], A. Koslowski, S. Blum, I. Dobrotić., G. Kaufman, P. Moss, [Koslowski, A., Blum, S., Dobrotić, I., Kaufman, G. and Moss, P.: 2021], O. Rudnytska [Rudnytska O.: 2018: 154 – 158], O. Rym [Rym O. : 2021]. Unfortunately, so far, the Ukrainian and foreign publications have not paid enough attention to the research of the efficiency of the Directive 2019/1158 implementation. However, new challenges connected with implementation of the EU - Ukraine AA and its Annex XL require special research on this issue.

Presentation of basic material of the research.

In order to achieve the interrelated goals of reconciling work and family life and gender equality, in 2019 the EU Council adopted Directive (EU) 2019/1158 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU [The European Parliament; the Council of the European Union: 2019b].

The main aim of the new Directive is to achieve the gender equality in the labour market and equal treatment for men and women who are parents in the labour relationship through introduction of the work-life balance policies (par. 2 of the Preamble) [The European Parliament; the Council of the European Union: 2019b].

Article 2 provides that the Directive “applies to all workers, men and women who have an employment contract or employment relationship as defined by the law, collective agreements or practice in force in each Member State, taking into account the case-law of the Court of Justice” [The European Parliament; the Council of the European Union: 2019b].

Directive 2019/1158 introduces several types of leaves (Article 3):

- ‘paternity leave’ - leave from work for fathers or ... for equivalent second parents on the occasion of the birth of a child for the purposes of providing care;

- ‘parental leave’ - leave from work for parents on the grounds of the birth or adoption of a child to take care of that child;

• ‘*carers’ leave*’ - leave from work for workers in order to provide *personal care or support* to a relative, or to a person who lives in the same household as the worker, and who is in need of significant care or support for a serious medical reason, as defined by each Member State [*The European Parliament; the Council of the European Union: 2019b*].

As for the ‘*paternity leave*’ every father or equivalent second parent is entitled to 10 working days to be taken on the occasion of the birth the child. This right is not supposed to be conditioned to the period of work qualification or to a length of service qualification which must not exceed 6 months immediately prior to the expected date of the birth of the child. Paternity leave has to be paid at the national sick pay level [*The European Parliament; the Council of the European Union: 2019b*].

Concerning ‘*parental leave*’ each worker is entitled to 4 months’ paid leave that is to be taken before the child reaches a specified age, up to the age of eight. 2 months of the parental leave are non-transferable between the parents. Each parent should receive at least two months of adequate compensation for parental leave. Parental leave may be subject to a period of work qualification or a length of service qualification which cannot exceed one year. Employers in EU Member States should ensure that employees can take parental leave on a flexible basis, such as alternating periods of leave with periods of work [*The European Parliament; the Council of the European Union: 2019b*].

Caregiving is also regulated under the Directive (Art. 6), namely workers caring for relatives who need support for serious medical reasons. These rules also apply to individuals living in the same household as the worker. During the course of the year, each caregiver may take five days off (‘*carers’ leave*’). [*The European Parliament; the Council of the European Union: 2019b*].

Employees with children up to a specified age, but at least 8, and carers have the right to request flexible work arrangements for caring purposes. Some of these arrangements include remote working, flexible schedules, or a reduction in working hours. In such cases, employers should respond in a reasonable amount of time, and provide their reasons for refusing or delaying such arrangements. Depending on the country, flexible working arrangements may be subject to work qualification or service qualification. However, the qualification period cannot exceed six months.

In the case of an immediate family emergency requiring the immediate attendance of the worker, member states must take whatever measures are necessary to ensure that each worker has the right to time off from work due to force majeure. The right of each worker to time off on grounds of force majeure may be restricted by member states to a certain number of days per year or by case, or both.

Regulations must be implemented in EU Member States so that, firstly, the right to apply for or take flexible working arrangements and family leave is protected from discrimination and dismissal; secondly, if workers believe they've been fired due to exercising their rights, they should be able to ask the employer to provide substantiated grounds for the dismissal; and thirdly, in the event of leave, the worker maintains the previous job and all the rights he had before he took leave (Article 7) [*The European Parliament; the Council of the European Union: 2019b*].

By August 2, 2022, the Directive must become law in the EU countries (except for the payment of the last two weeks of parental leave deadline for which August 2, 2024 is the deadline). A report on the implementation of this Directive shall be drawn up by the Commission by August 2, 2027.

There are currently (as of January , 2022)only 4 (four) EU Member States that have successfully transposed the provisions of Directive 2019/1158 to their national legislation and submitted this information to the European Commission: Austria, Belgium, the Czech Republic and France [21].

Austria informed the European Commission that the federal state (Land) of Carinthia on September 23, 2021, adopted the Law on Equal Treatment of Women and Men and the Prohibition of Discrimination [*Landtag von Kärnten: 2021*] which implements the provisions of the Directive 2019/1158 at the federal state level.

In Belgium amendments were introduced to the Order of the Government of the Brussels-Capital Region laying down the administrative and financial status of staff of the Brussels regional public services (2018) [*Gouvernement de la Région de Bruxelles-Capitale*: 2018a] and Decree of the Government of the Brussels-Capital Region laying down the administrative and financial status of agents of public interest bodies in the Brussels-Capital Region [*Gouvernement de la Région de Bruxelles-Capitale*: 2018b]. These provisions concerned the right of the civil servants to be released from the implementation of their official duties due to the paternal leave. As for the parental leave both acts provide that it is unpaid. For the rest, it is connected to a period of service activity.

In France the provisions of the Labour Code since 2012 provide for the following: “After the birth of his child and within a period determined by decree, the employed father benefits from a paternity leave of eleven consecutive days or eighteen consecutive days in the event of multiple births. Paternity leave results in the suspension of the employment contract. The employee who wishes to benefit from paternity leave informs his employer at least one month before the date on which he plans to take it, specifying the date on which he intends to end it.” (Art. L1225-35) and “At the end of the paternity leave, the employee returns to his previous job or a similar job with at least equivalent remuneration” (Art. L1225-36) [19]. So in general these articles correspond to the rules of the Directive 2019/1158.

Moreover June 30, 2021 the Decree No. 2021-871 relating to maternity leave and parental responsibilities in the State civil service was adopted [20]. The Decree determines, for civil servants and contractual agents of public law in the civil service of the State, the conditions for granting and using maternity leave, birth leave, leave for the arrival of a child placed for adoption, adoption leave as well as paternity and parental leave. It also specifies the deadlines and modalities of implementation and the modalities of use of this leave.

The Czech Republic introduced amendments to 51 national legal act: starting from 1963 Code of Civil Procedure and recent amendments to 2000 Labour Code [21].

In general, the current situation of the EU member states regarding the introduction of *paternity leave* is as follows. Many countries have statutory and designated paternity leave (Belgium, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Greece, Hungary, Ireland, Italy, Malta, Netherlands, Poland, Portugal, Slovenia and Sweden). In Austria the paternal leave is statutory entitled in public sector but unpaid. In Germany, many fathers take advantage of some parental leave entitlements right after birth that are specific to them, in much the same way as paternity leave. As for Luxembourg, there is no statutory paternity leave, although fathers can use ten days of well-paid leave for “exceptional circumstances”. Most paternity leaves are paid and most of the time at a high wage-related rate for the duration of the leave. The length of paternity leaves can vary from a few days (1 – Malta (private sector), 2 – Greece, 5 – Hungary, Malta (public sector), Romania) to more than 16 weeks (in Spain) [*Kosłowski, A., Blum, S., Dobrotić, I., Kaufman, G. and Moss, P.*: 2021: 11].

As was previously mentioned, under the Directive 2019/1158, all EU member states are required to offer parents at least four months of *parental leave* each. Parents' entitlement to parental leave is determined by four main factors: its length, whether it is an individual or family entitlement, its payment, and its flexibility [*Kosłowski, A., Blum, S., Dobrotić, I., Kaufman, G. and Moss, P.*: 2021: 18].

The countries can be divided into two categories based on the length of parental leave available: those that provide less than 15 months of leave; and those that provide continuous leave for up to three years. Belgium, Bulgaria, Croatia, Cyprus, Denmark, Finland, Ireland, Italy, Luxembourg, Malta, Netherlands, Poland, Portugal, and Slovenia fall under the former. In the latter group, we find the Czech Republic, Estonia, France, Germany, Hungary, Lithuania, Slovakia, and Spain. Sweden and Latvia have similar systems: paid leave is expressed in days (so it can be taken very flexibly), roughly equivalent to 18 months if taken continuously, while parents can take unpaid leave until their children reach the age of 18 months - this is similar to the Latvian system. This is also the case in Austria and Romania, with parental leave possibly lasting until a child turns two. The Greek government also sets an example by allowing for four months of leave per parent in the

private sector and sixty in the public sector. In some countries, parental leave is complemented by childcare leave, so the period of leave is extended [Kosłowski, A., Blum, S., Dobrotić, I., Kaufman, G. and Moss, P.: 2021: 18-19].

Currently, in seven countries, parental leaves (benefits) are family entitlement to be divided among parents as they wish (Austria, Estonia, Finland, Hungary, Lithuania, Poland, and Slovakia). In 16 countries (Australia, Belgium, Bulgaria, Croatia, Czech Republic, Denmark, France, Germany, Greece, Ireland, Italy, Latvia, Luxembourg, Netherlands, Slovenia, and Spain) it is individual entitlement. In Portugal, Romania, and Sweden it is a mixed entitlement (part family, part individual). In Malta, public employees have a family entitlement, and private sector workers have an individual entitlement. It is common for individual entitlements not to be transferrable, so unused entitlements are foregone (following the "use it or lose it" principle); however, in Croatia, Czech Republic, Slovenia, and Sweden, some unused entitlements are transferrable to partners [Kosłowski, A., Blum, S., Dobrotić, I., Kaufman, G. and Moss, P.: 2021: 19].

In most EU Member States, some form of payment is provided except for Cyprus, Greece, Ireland, Malta, the Netherlands, and Spain. The way payments are made varies from country to country and sometimes can include a benefit cap [Kosłowski, A., Blum, S., Dobrotić, I., Kaufman, G. and Moss, P.: 2021: 19].

National legislation of EU Member States provides for different forms of flexibility: starting from the ability for parents to combine part-time employment and part-time leave (i.e., parents could work part-time and take part-time leave together) to the option for both parents to take leave together [Kosłowski, A., Blum, S., Dobrotić, I., Kaufman, G. and Moss, P.: 2021: 19-20].

Thus it can be concluded that although only few EU Member States have officially informed the European Commission regarding their transposition activities in terms of Directive 2019/1158 the majority of them already have those provisions being in force in their legal order. So, the principle of work-life balance is being enforced in the European Union. That is why it is essential for Ukraine also to bring the appropriate legislation into compliance with EU legal provisions.

Declaring in the Constitution its European integration aspirations and committing itself to the Association Agreement (hereinafter - the AA), the Ukrainian state set itself the goal of bringing its legislation in line with current EU standards to ensure equal opportunities for men and women to care for children and work-life balance.

Thus, pursuant Article 419 AA "the Parties shall strengthen their dialogue and cooperation on promoting the decent work agenda, employment policy, health and safety at work, social dialogue, social protection, social inclusion, gender equality and non-discrimination" [European Atomic Energy Community; European Union; The Member States; Ukraine 2014]. And Art. 420 AA identifies possible means to achieve such goals, namely: aim at gender equality and ensure equal opportunities for women and men in employment, education, training, economy and society, as well as decision-making [European Atomic Energy Community; European Union; The Member States; Ukraine: 2014].

In turn, in compliance with the provisions of Art. 423 AA the European Union and Ukrainian state shall aim at enhancing cooperation on employment and social policy matters in all relevant regional, multilateral and international fora and organisations [European Atomic Energy Community; European Union; The Member States; Ukraine: 2014].

Article 291 (3) AA provides that the Parties reaffirm their commitment to effectively implement the fundamental and priority ILO Conventions that they have ratified, and the ILO 1998 Declaration on Fundamental Rights and Principles at Work [European Atomic Energy Community; European Union; The Member States; Ukraine: 2014].

In addition, the system of obligations under the AA includes the need to gradually bring Ukrainian legislation in line with EU law, standards and practices in the field of social policy, employment regulation and equal opportunities, which are listed in Annex XL to the AA. Thus, with regard to the issues of safeguarding a work-life balance, Annex XL clearly states that within three years from the date of entry into force of the AA, the Ukrainian state must bring its legislation in compliance with the provisions of Council Directive 2010/18/EU of 8 March 2010 implementing

the revised Framework Agreement on parental leave [*The European Parliament; the Council of the European Union: 2019a*] which as was mentioned above had been repealed by the Directive (EU) 2019/1158 [*The European Parliament; the Council of the European Union: 2019b*].

In accordance with the requirements of the AA and Directives 2010/18/EU and 2019/1158 in April 2021 the Verkhovna Rada of Ukraine adopted the Law “On Amendments to Certain Legislative Acts of Ukraine to Ensure Equal Opportunities for Mothers and Fathers in Child Care” [*Verkhovna Rada of Ukraine: 2021*] which introduced amendments to the Labor Code of Ukraine of 1971 and the Law of Ukraine “On Leaves” of 1996.

In accordance with these amendments to the Labor Code, it is now possible for enterprises, institutions and organizations to establish reduced working hours at their own expense for employees with children under the age of fourteen or a child with disabilities, as well as for single mothers and fathers who are raising a child without a father (mother), including in the case of a long stay of the mother in a hospital (Article 51 (4)). The Code also updates the list of persons who can enjoy the right to parental leave: this is now provided for “one of the parents” or “the mother or father of the child” [*Verkhovna Rada of Ukraine: 1971*].

In addition, the Labor Code was amended by Art. 773, and the Law of Ukraine “On Leaves” by Art. 191 “Childbirth leave”. Thus, these articles stipulate that one-time paid leave at the birth of a child lasting up to 14 calendar days (excluding holidays and non-working days) is provided to employees, namely: 1) a husband whose wife gave birth to a child; 2) the father of the child who is not in a registered marriage with the mother of the child, provided that they live together, are related by common life, have mutual rights and obligations; 3) grandparents or other adult relatives of the child who actually care for the child, whose mother or father is a single mother (single father). Childbirth leave is granted only to one person... [*Verkhovna Rada of Ukraine: 1971, 1996*]. The procedure for granting such leave is determined by the Law “On Leaves”. Moreover, in July 2021, the Cabinet of Ministers of Ukraine adopted the procedure for granting parental leave [*Cabinet of Ministers of Ukraine: 2021*].

Thus, the signing and entry into force of the AA established for Ukraine the preconditions for the approximation of domestic standards to promote a work-life balance, forcing changes in existing legislation in accordance with these standards. However, certain provisions of Directives 2010/18 and 2019/1158 have not been provided for in Ukrainian regulations, and therefore the latter need to be improved, in particular, in terms of guaranteeing the rights of mothers and fathers who seek to return to the same or an equivalent position and enjoy better working conditions after appropriate social leave as well as the creation of a legal basis for such employees to raise the issue of changing the mode of operation over a period of time.

Conclusions. Thus, the following conclusions can be drawn about the state of implementation of Directive (EU) 2019/1158 in the EU Member States and in Ukraine:

1. Even though as of January 2021 only 4 Member States officially informed the European Commission regarding their transposition measures, the provisions of the national legislation of the EU Member States on parental leave meet the minimum requirements established by the Directive. Moreover, the provisions of national law often provide more favourable conditions than the provisions of the Directive: in particular, on the duration of paternal and parental leave, remuneration and compensation provided for such types of leaves; the conditions for granting such leave; individualization and the principle of impossibility to transfer parental leave; the entitlement to parental leave; special provisions for carers leaves.

2. Regarding the main problems of national implementation of the provisions on leave for fathers and other relatives, there are two essential: lack of clarity and transparency of national legislation in some countries regarding the ratio of different types of leave aimed at work-life balance for working parents; the second problem lies in the economic terrain. Due to the fact that the traditional perception of the social roles of male and female is preserved, the responsibility for caring for a child is attributed mainly to women. Therefore, the issue of payment or compensation for leave is a key factor in the practical application (and more equal sharing) of leave and the organization of working time in order to promote work-life balance.

3. With respect to the compliance of the Ukrainian legislation, the amendments made to the Labour Code and the Law of Ukraine "On Leaves" in the spring of 2021 can be evaluated very favourably. These provisions create the preconditions for equal opportunities for men and women in terms of parental rights and responsibilities, as well as work-life balance. Although, of course, there are some drawbacks to the amendments. The mother or father of the child have no safeguards regarding their right to apply for the same or another equivalent position upon returning from parental leave, improved working conditions, or the right to raise concerns about changes to the working regime. Reduced working hours for employees with children under the age of fourteen or children with disabilities, as well as for single mothers, or parents raising a child without a father (mother), including in the case of long hospital stays the employer can arrange at his own expense, which is highly unlikely to occur.

References

1. European Union (2012) *Consolidated Versions of the Treaty on the European Union and of the Treaty on the Functioning of the European Union*, Available at: <https://eur-lex.europa.eu/eli/treaty/tfeu_2012/oj>.
2. The European Parliament; the Council of the European Union (2010) *Council Directive 2010/18/EU implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC*, Available at: <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02010L0018-20140101>>.
3. The European Parliament; the Council of the European Union (2019) *Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU*, Available at: <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32019L1158>>.
4. European Atomic Energy Community; European Union; The Member States; Ukraine (2014) *Association Agreement between the European Union and its Member States, of the one part, and Ukraine of the other part*, Available at: <<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22014A0529%2801%29&rid=3>>.
5. Verkhovna Rada of Ukraine (2021) Law of Ukraine 'On Amendments to Certain Legislative Acts of Ukraine to Ensure Equal Opportunities for Mothers and Fathers in Child Care', No. 1401-IX, Available at: <https://zakon.rada.gov.ua/laws/show/1401-20#n27>.
6. Verkhovna Rada of Ukraine (1971) *Labour Code of Ukraine*, Available at: <<https://zakon.rada.gov.ua/laws/show/322-08#Text>>.
7. Verkhovna Rada of Ukraine (1996) *Law of Ukraine of 15th November 1996 'On Leaves'*, <<https://zakon.rada.gov.ua/laws/show/504/96-%D0%B2%D1%80#Text>>.
8. Cabinet of Ministers of Ukraine (2021) Resolution of 07th July 2021 'On the approval of the procedure for granting parental leave'. Available at: <<https://zakon.rada.gov.ua/laws/show/693-2021-%D0%BF#Text>>.
9. Landtag von Kärnten (2021) *Gesetz vom 23. September 2021 über die Gleichbehandlung von Frauen und Männern und das Verbot der Diskriminierung*, Available at: <<https://www.ris.bka.gv.at/eli/lgb/KA/2021/70/20211007>>.
10. Gouvernement de la Région de Bruxelles-Capitale (2018) *Arrêté du Gouvernement de la Région de Bruxelles-Capitale portant le statut administratif et pécuniaire des agents des services publics régionaux de Bruxelles*, Available at: <http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2018032112&table_name=loi>.
11. Gouvernement de la Région de Bruxelles-Capitale (2018) *Arrêté du Gouvernement de la Région de Bruxelles-Capitale portant le statut administratif et pécuniaire des agents des organismes d'intérêt public de la Région Bruxelles-Capitale* Available at: <http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&table_name=loi&cn=2018032111>.

12. Iolkina Nadiia (2020) 'Bat`kivs`ka vidpustka: analiz sudovoyi prakty`ky` Ukrayiny` ta dosvid IeS' [Parental Leave: Ukrainian case-law analysis and the EU experience]. Available at: <<https://loyer.com.ua/uk/batkivska-vidpustka-analiz-sudovoyi-praktyky-ukrayiny-ta-dosvid-yes/>>.
13. Rudnytska O. 'Pravove reguliuvannia sotsialnikh vidpustok: zarubizhnyi dosvid' [Legal regulation of social leave: foreign experience], *Iurydychnyi naukovyi elektronnyi zhurnal*, No. 6, pp. 154 – 158.
14. Rym Olena Mykhailivna (2021) 'Trudove parvo Ievropeiskoho Soiuzu ta ioho vplyv na rozvytok trudovoho prava Ukrayiny: dysertatsiia' [The labour law of the European Union and its impact on the Ukrainian labour law development]. Available at: <https://www.researchgate.net/profile/Olena-Rym/publication/353073796_Trudove_pravo_Evropskogo_Souzu_ta_jogo_vplyv_na_rozvitok_trudovogo_prava_Ukraini_The_Labour_Law_of_the_European_Union_and_Its_Impact_on_the_Ukrainian_Labour_Law_Development/links/60e6e87d0fbf460db8efa9a8/Trudove-pravo-Evropskogo-Souzu-ta-jogo-vplyv-na-rozvitok-trudovogo-prava-Ukraini-The-Labour-Law-of-the-European-Union-and-Its-Impact-on-the-Ukrainian-Labour-Law-Development.pdf>.
15. Sviatun Olena (2017) 'Implementatsiia dyrektyvy 2010/18/EU pro vidpustku po dohliadu za dytynoiu v derzhavakh-chlenakh IeS' [Implementation of the Directive 2010/18/EU on parental leave in the EU Member States], *Zhurnal ievroiskoho i porivnialnoho prava*, No. 2, pp. 24-41.
16. Belle van Janna (2016) 'Paternity and parental leave policies across the European Union'. Available at: <https://www.rand.org/pubs/research_reports/RR1666.html>.
17. Koslowski, A., Blum, S., Dobrotić, I., Kaufman, G. and Moss, P. (2021) 17th International Review of Leave Policies and Related Research 2021. DOI: 10.18445/20210817-144100-0. Available at: <www.leavenetwork.org/annual-review-reports/review-2021/>.
18. Janta Barbara (2018) 'Potential changes to paternity and parental leave in Europe'. Available at: <<https://encompass-europe.com/comment/potential-changes-to-paternity-and-parental-leave-in-europe>>.
19. Code du travail, Available at: <https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006072050/2008-05-01/>.
20. Décret n° 2021-871 du 30 juin 2021 relatif aux congés de maternité et liés aux charges parentales dans la fonction publique de l'Etat. Available at: <<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043728505>>.
21. National transposition measures communicated by the Member States concerning: Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU. Available at: <<https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=celex:32019L1158>>.

NECESSITY AND DIFFICULTIES TO ESTABLISH A REPRESSIVE SYSTEM FOR INTERNATIONAL CRIMES COMMITTED IN THE DRC

Mupendana Pierre Claver

Professor of International Law in several African Universities, Founding President of the University Institute for Peace and Development of Africa - BENIN, Member of the Defense Council at the International Criminal Tribunal for Rwanda; E-mail: prof.mupendana.claver@gmail.com

Abstract. *More than 600 well-documented crimes have been identified in the Democratic Republic of Congo during the armed conflicts that have raged there since 1993 to the present day. Crimes against humanity, serious violations of international humanitarian law, crimes of aggression, crimes of genocide, and terrible human rights violations have been committed. The perpetrators of these crimes must be brought to justice and punished so that the victims of these crimes can be restored to their rights and the Congolese social fabric can be rebuilt. There is no need to dream of an international criminal court for the Congo created under the auspices of the Security Council. The majority of its permanent members are involved. The trial and punishment of any criminal is the discretionary competence of the State or States acting in a sovereign manner. To better achieve this objective, it is important to take stock of the Congolese law enforcement system and to conclude whether or not it is capable of punishing the perpetrators of international crimes in the DRC. Taking into account the number of suspects to be judged and the almost non-existence of specialists in international criminal law in the country, it would be appropriate to resort to international criminal justice, either at the universal or regional level. The creation of a Truth, Justice and Reconciliation Commission, both at the national and regional levels, will facilitate the political and social reconstruction of the State and promote popular cohesion.*

Key-words: *International justice, creation of an international criminal jurisdiction, international crimes, capacity to create an international criminal jurisdiction, Truth, Justice and Reconciliation Commission.*

Mupendana Pierre Claver

Professeur de Droit International dans plusieurs Universités Africaines, Président Fondateur de l'Institut Universitaire pour la Paix et le Développement de l'Afrique - BENIN, Membre du Conseil de Défense au Tribunal Pénal International pour le Rwanda; E-mail: prof.mupendana.claver@gmail.com

Resume. *Plus 600 crimes très bien documentés ont été identifiés en République Démocratique du Congo dans les conflits armés qui y sévissent depuis 1993 jusqu'à nos jours. Des crimes contre l'humanité, des violations graves du Droit International Humanitaire, des crimes d'agression, des crimes de génocides, de terribles violations des droits de l'homme ont été commis. Leurs auteurs doivent être traduits en justice et sanctionnés afin que les victimes de ces crimes puissent être rétablies dans leurs droits et que le tissu social congolais soit reconstruit. Point n'est besoin de rêver d'une juridiction pénale internationale pour la Congo créée sous les auspices du Conseil de Sécurité. La majorité de ses membres permanents y sont impliquée. Le jugement et la sanction de tout criminel est de la compétence discrétionnaire d'Etat ou des Etats agissant de manière souveraine. Pour mieux atteindre cet objectif, il importe de faire l'état des lieux du système répressif congolais, par conclure, si oui ou non, il est capable de réprimer les auteurs de crimes internationaux en RDC. En tenant compte du nombre de suspects à juger et de la quasi- inexistence des spécialistes du Droit International Pénal dans le Pays, il s'avérera opportun de recourir à la justice pénale internationale, soit au niveau universel, soit au niveau régional. La création d'une Commission Vérité, Justice et Réconciliation, tant au niveau national qu'au niveau régional facilitera la reconstruction politico-sociale de l'Etat et promouvra la cohésion populaire.*

Mots-cles: *Justice internationale, création d'une juridiction pénale internationale, crimes internationaux, compétence de création d'une juridiction pénale internationale, Commission vérité, justice et réconciliation.*

Introduction: Depuis 1960, la République Démocratique du Congo n'a cessé d'être le théâtre de conflits armés. Ayant atteint leur paroxysme en 1993, les Nations Unies ont initié une enquête approfondie sur les crimes internationaux qui y ont été commis depuis 1993 jusqu'en 2003. Le Rapport Mapping a documenté plus de 617 cas de violations graves de Droit International Pénal et de Droit International Humanitaire. Des rapports complémentaires ont continué de compléter ce fabuleux travail. Pour éviter de pérenniser l'impunité, le Rapport suggère la traduction de criminels devant les cours et tribunaux, la Cour pénale internationale et suggère la création d'une Juridiction Pénale Internationale spécialement créée pour la République Démocratique du Congo.

L'Objectif fondamentale de cette analyse est de rechercher les voies et moyens de réprimer et sanctionner les crimes internationaux qui ont été commis en République Démocratique du Congo. En plus, c'est une tentative de recherche des pistes que doivent emprunter les leaders Congolais dans le processus de mise en place d'un système de répression de crimes internationaux commis en RDC.

En rapport avec les publications récentes à ce sujet, force est de reconnaître que ce thème n'a jamais été intéressé par les juristes internationalistes. Sans vouloir affirmer notre position de pionnier à cause du caractère récent de la problématique, il serait pourtant honnête de reconnaître l'existence de quelques timides discussions et prises de position sur ce sujet, pourtant de très grande importance pour la RDC et pour l'Afrique des Grands Lacs. L'on peut évoquer par exemple, KITENGE KYUNGU Junior, Jean-Pierre FOFÉ DJOFIA MALEWA, Joseph KAZADI MPIANA, Cécile APTEL.

Principaux résultats de la Recherche : Au cours de notre réflexion, nous avons pu comprendre que la mise en place des juridictions pénales internationales est acte discrétionnaire de l'Etat ou des Etats. L'intervention du Conseil de Sécurité est subsidiaire et ne peut intervenir qu'en cas des ruptures de la paix et de la sécurité internationale. En matière de répression des crimes internationaux commis au sein d'un Etat, le système répressif peut faire recours au système judiciaire national, au système judiciaire international ou régional et enfin à l'institutionnalisation d'un organe politico-social dit « Commission vérité, justice et réconciliation.

Introduction. Since 1960, the Democratic Republic of Congo has been the scene of continuous armed conflicts. Having reached its climax in 1993, the United Nations initiated an in-depth investigation into the international crimes that were committed there from 1993 until 2003. The Mapping Report documented more than 617 cases of serious violations of international criminal law and international humanitarian law. Additional reports have continued to complete this fabulous work. To avoid perpetuating impunity, the Report suggests that criminals be brought before the courts and tribunals, the International Criminal Court, and suggests the creation of an International Criminal Court specially created for the Democratic Republic of Congo.

The fundamental objective of this analysis is to seek ways and means to repress and punish international crimes that have been committed in the Democratic Republic of Congo. In addition, it is an attempt to find the paths that Congolese leaders should take in the process of setting up a system of repression of international crimes committed in the DRC.

In light of recent publications on this subject, it must be recognized that this topic has never been of interest to international lawyers. Without wishing to assert our position as a pioneer because of the recent nature of the issue, it would be honest to acknowledge the existence of a few timid discussions and positions on this subject, which is of great importance for the DRC and for Africa's Great Lakes. We can mention, for example, KITENGE KYUNGU Junior, Jean-Pierre FOFÉ DJOFIA MALEWA, Joseph KAZADI MPIANA, and Cécile APTEL.

Main results of the research: During our reflection, we were able to understand that the establishment of international criminal jurisdictions is a discretionary act of the State or States. The intervention of the Security Council is subsidiary and can only intervene in case of disruptions of international peace and security. In terms of repression of international crimes committed within a State, the repressive system can have recourse to the national judicial system, the international or

regional judicial system and finally to the institutionalization of a political and social body known as the "Truth, Justice and Reconciliation Commission.

The problem of "the establishment of a system for the repression of international crimes committed in the Democratic Republic of Congo" only encourages international jurists, criminalists and political scientists to shake their heads before formulating an effective and lasting solution for the effective and permanent repression of criminals who have specialized and still specialize in the commission of international crimes against the peoples of the Great Lakes region of Africa. It should be emphasized without fear or risk of being mistaken, this problem is only the logical, normal and direct outcome of the seriously violent conflicts that have plagued Africa's Great Lakes region since 1960 (Le Congo dans la guerre: 1977).

The creation of judicial bodies for the repression of international crimes is not the prerogative of the Security Council. Did the International Criminal Court need this UN body to be set up? Sovereign States, as original sovereigns, have undeniable pre-eminence in this field. Alone or collectively, the State has the primary competence to repress them.

The creation of judicial institutions to judge the criminals involved in the decimation of the populations of Central Africa can only be properly apprehended and radically combated if it is placed and approached within a strictly regional framework for several reasons. First of all, those who are at the origin of this situation of extermination of the populations of Central Africa and plundering of natural resources are mainly from the neighboring countries of the Democratic Republic of Congo (GIBBS D : 1991 ; ZIEGLER J : 1962 ; BRASSIME DE LA BUISSIÈRE J. : 2016, MASSON P. : 1970 ; BAKAJIKA B. T. : 1997). Secondly, the planners, organizers and perpetrators of the crimes committed there basically came from Rwanda (SPEED D.: 1997; NERETSE E. and MUSABYIMANA G.: 2010) Burundi (CHOSSUDOVKY M.: 2003; KRUEGER R and K.: 2007, ONANA Ch.: 2009; PHILPOT R.: 2013; NDANYUZWE N.: 2014), Uganda (MUTUZA KABE R., 2009; BUCYALIMWE MARARO S.: 2016), multinationals, neo-colonialist Western powers - USA, Belgium, Great Britain, France (TAOUFIK R.: 2005) obviously having accomplices from the Democratic Republic of Congo (NGBANDA H.: 2005; HARMON SNOW K.: 2012). Third, the victims of these criminal acts are Congolese, Burundian, Rwandan, etc. (ICJ: 2005). Therefore, it is logical that the reflections concerning the creation of a jurisdiction called to repress all these crimes should be done in the same dynamic and with the same vision. Any initiative aiming to find a logical and objective, just and sustainable, truly African and humanitarian solution must not deviate in any way from the observations we have just made.

Indeed, the last decade of the twentieth century saw Africa's Great Lakes get bogged down in a cycle of unspeakable violence. Already, the war of aggression against Rwanda by Uganda sounded the death knell for the entire region (PEAN P.: 2005; PHILPOT R.: 2003; ONANA Ch.: 2005; MUTABAZI E.: 1990; MUSABYIMANA G.: 2003; PRUNIER G.: 1992). Rwanda, to begin with, discovered genocides, organized massive massacres, collective rapes, emasculations, forced transfers of population, indiscriminate destruction of heritage, massive exoduses of the population, cleverly organized deportations, uprooting disguised as resettlement to distant confines, acts of terrorism orchestrated by state powers and military-political organizations (PHILPOT R. 2003; MUPENDANA P.C. 2018).

Since March 1993, while Rwanda was moving dangerously towards the macabre killings between Hutus and Tutsis in 1994, everything was boiling over in Zaire. The "Banyamulenge" phenomenon had just mysteriously appeared. In 1994, more than two million Rwandan and Burundian Hutu refugees flooded into eastern Zaire, fleeing the genocides in Rwanda and Burundi. The Rwandan, Ugandan and finally Burundian Tutsis then put into action alibis conceived a long time ago to rush to Zaire, this immense Central African country: To hunt down the Hutu genocidaires in order to force them to return to Rwanda to be judged, to come to the aid of the Banyamulenge who were about to undergo genocide following the example of the Tutsis in Rwanda and finally the ardent desire to conquer Zaire and to drive out the dictator Field Marshal MUBUTU. Professor Filip Reyntjens expresses it in these terms: to justify the war against the Democratic Republic of Congo, it was undertaken "a real resistance of the Congolese Tutsis who feared

reprisals; the instrumentalization of this struggle by the Rwandan regime in order to cover up the intervention of the RPA in Zaire, and the commitment made to the Anglo-Saxons to conquer the wealthy Zaire and free it from the Mobutu dictatorship (REYNTJENS F.: 1999). On the Rwandan and Ugandan side, an offensive was set in motion. After small-scale attacks in North Kivu, at the nerve center of the ex-FAR military apparatus, and infiltrations into South Kivu, a larger-scale attack was launched in September 1996. The operation began in the "soft underbelly" of Kivu, in the stronghold of the Tutsi Banyamulenge population, which was the most directly threatened, constituting the most obvious anchor point for the essentially Tutsi government in Kigali. The mountainous terrain of the "Banyamulenge" offered an ideal environment for the infiltration of weapons and men prior to the start of the conflict, as well as for guerrilla-type operations (SONDJI J.B.: 1999).

Small-scale attacks took place from the beginning of August, probably to test the resistance capacity of the Zairian troops. At the end of August, columns of young armed men crossed the Ruzizi River, which forms the border with Burundi, at the ford of Luvungi. They regrouped in the mountains and high plateaus around Uvira, which is partly the region of the Banyamulenge, and headed towards their "capital" Minembwe (WILLAME J.C.: 1997; MARYSSE S. and REYNTJENS F.: 1996; KENNES E.: 1997). These are young Tutsis from Masisi, trained in Rwanda, young Banyamulenge demobilized by the RPF and soldiers of the Burundian Armed Forces. Banyamulenge" officers, formerly members of the FAZ, lead the movement. On September 13, 1996, the Zairian government accused the Rwandan government of having enrolled 3,000 Banyamulenge in its army (HAUT CONSEIL DE LA REPUBLIQUE-PT: 1994). These were the beginnings of the invasion of Zaire. A war that was very bloody and that continues to swallow thousands of human lives.

The multiple NGOs that abounded in the refugee camps based in the East of the Democratic Republic of Congo witnessed and witnessed the horrible massacres of which the refugees and the Bantu populations were victims. Religious figures, for having openly denounced the macabre systematic massacres of which the Hutu refugees were victims, paid with their lives. The late Archbishop MUNZHIRWA, Archbishop of BUKAVU, speaking in the name of the Movement for the Defense of Kivu, for peace and against the war in Kivu said, in his capacity as Moderator: "We ask especially the Tutsis of Rwanda, whom we have welcomed many times as refugees, not to spit in the wells where they have drunk. Today they are rewarding us with bombs... Let them remember that history is turning. (CHIRHALWIRWA kagwi Milikuza: sd)" This message is dated October 26, 1996. His successors Archbishop Emmanuel KATALIKO and Archbishop Charles MBOGHA suffered the same fate.

In the face of this tragedy, part of the international community spared no effort to demand a thorough investigation of the countless exactions committed in the Democratic Republic of Congo since 1993. In 1994, the United Nations Commission on Human Rights created a set of mechanisms to investigate violations of human rights, either in a specific country or in relation to a particularly abject or perverse form of violation of human dignity. These mechanisms have proven to be increasingly effective, as evidenced by the confidence placed in them by human rights defenders and organizations and the impact of their reports. Their publicity is also an advantage (E/CN.4/1997/6/Ad.2: 1996/97).

When the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) discovered more than three mass graves in North Kivu in late 2005, it became imperative to investigate this painful reminder that past gross human rights violations in the DRC had gone largely unpunished and uninvestigated. After extensive consultations within the United Nations, the initial idea of reactivating the 1997-1998 Investigative Team established by the Secretary-General was discarded in favor of a broader project aimed at providing the necessary tools to Congolese authorities to begin the fight against impunity. Consultations between the UN Department of Peacekeeping Operations (DPKO), MONUC, the Office of the High Commissioner for Human Rights (OHCHR), the Department of Political Affairs (DPA), the Office of Legal Affairs (OLA), and the Office of the Special Adviser on the Prevention of Genocide (OSPG)

resulted in an agreement to recommend that a stocktaking exercise be conducted covering the period from March 1993 to June 2003. The mutually agreed goal was to collect, analyze and make public the prima facie evidence of violations of human rights and international humanitarian law and, based on the results of this exercise, to assess the capacity of the national justice system in the DRC to respond to the violations that are uncovered. It was agreed that this initiative should also lead to the formulation of options for appropriate transitional justice mechanisms that would adequately address the consequences of these violations. Finally, it was considered that the human rights mandate of MONUC approved by the Security Council in 2003 (Resolution 1493 (2003)) could cover the activities of the "Mapping Report" as proposed. It was assigned the main task of "providing the basic elements necessary to formulate initial investigative hypotheses by giving an idea of the scale of the violations, establishing their characteristics and identifying the possibilities for obtaining evidence (OHCHR: 2008).

The so-called Mapping Project, as it was named, was intended to provide an essential tool for advocacy with the Government and Parliament, as well as the international community, for the establishment of appropriate transitional justice mechanisms and to foster concerted efforts to combat impunity. In his June 13, 2006 report to the Security Council on the situation in the Democratic Republic of Congo, the Secretary-General expressed his intention to "send a team of human rights experts to the DRC to compile an inventory of the serious violations committed there between 1993 and 2003 (MONUC (S/2006/390)).

The OHCHR was entrusted with the management of the project and a dozen interested partners provided funding through voluntary contributions. UNDP-DRC provided the financial administration of the Project and MONUC provided logistical support. An agreement was signed between these three entities delineating their respective rights and obligations. The constant and massive support of these three entities for the Mapping Exercise deserves to be highlighted at this point.

In the words of the then High Commissioner, the Mapping Exercise report "is intended to be the first and only comprehensive United Nations report documenting the major human rights violations committed in the DRC between 1993 and 2003. As such, the report should be of fundamental importance in the context of efforts to protect human rights and combat impunity. By making an important contribution to documenting the most serious violations of human rights and international humanitarian law committed in the DRC during this period of conflict, this report aimed to help the Congolese authorities and civil society identify and implement a strategy to bring justice to the many victims and thus combat widespread impunity. It was also intended to help mobilize more international resources to address the key justice and reconciliation challenges facing the DRC.

The Terms of Reference instructed the Mapping Exercise Team to "complete its work as quickly as possible, to assist the new government with the necessary tools to manage post-conflict processes. A period of at least two months was planned for the Team members to be recruited and for the Team to be deployed and fully operational, followed by an additional six months to complete the Project, with the possibility of an extension "if necessary. If the duration of the Project seemed too short in the eyes of many in view of the magnitude of the task to be accomplished, it was nonetheless necessary in view of the urgency of quickly concluding this exercise (the launch of which had been postponed many times) in order to immediately benefit Congolese society. In the end, the Project lasted just over ten months, from the Director's arrival in Kinshasa at the end of July 2008 to the submission of the final report to the United Nations High Commissioner for Human Rights in mid-June 2009. It documented over six hundred crimes committed in the Democratic Republic of Congo.

The Mapping Exercise report on the most serious violations of human rights and international humanitarian law committed between March 1993 and June 2003 on the territory of the Democratic Republic of Congo was made public in August 2010. However, it has been supplemented by occasional reports and by another report issued pursuant to UN Security Council resolutions 2528 (2020). The report continues to be supplemented, as was the case with the report

submitted to the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of Congo on November 23, 2020, which was considered on December 3, 2020.

At the end of a fascinating and laborious exercise of in-depth analysis of a document with a content of at least 500 pages, the "Mapping Exercise Report", it is clear that it can be summarized as follows. The report can be summarized in one word as a form of "advocacy" of an incentive nature, highlighting the urgency and necessity of setting up sufficiently equipped legal and judicial bodies to fight against impunity for crimes and abuses committed on DRC territory during a specific period from 1993 to 2003 (KITENGE KYUNGU Junior: sd). Moreover, this exercise makes it possible to note that transitional justice does not exclude traditional criminal justice insofar as the latter is an integral part of the range of solutions offered by transitional justice and even constitutes one of its pillars. By transitional justice, it is important to understand, in countries where the rule of law has been established or re-established, the set of measures aimed at clearing up the past, through classic procedures (prosecution of criminals, amnesties...) or more original ones, on the model of the Truth and Reconciliation Commission created in South Africa after the end of the apartheid regime (GUINCHARD S., DEBARD Th. (dir.): 2017).

To this end, criminal repression is necessary to recognize the rights of victims and rebuild the social fabric. This is all the more true since it should be stated that the success of transitional justice mechanisms, and the creation of an international jurisdiction relies on the real participation of victims, particularly through their participation in hearings of a truth and reconciliation commission, opinions on legislative and institutional reforms during public consultations, involvement in legal proceedings by constituting themselves as civil parties, etc.

The other particularity of this transitional justice is that it has caused great excitement among the Congolese population and the peoples of the Great Lakes region. In order to implement the institution of the "Responsibility to Protect", everyone is of the opinion that peace in the DRC and in the entire region seems to be an illusion as long as the supporters of the armed groups are never uncovered. Hence the request of the President of the Republic, His Excellency. Félix Antoine TSHISEKEDI, deserves attention beyond speeches, but the pressing need to protect human lives in this part of the world and for hundreds of thousands of people in insecurity for decades. The question remains: with the political, socio-economic, security and diplomatic context of the DRC, can we hope that the Security Council and the world commonly known as the international community are willing to create an International Criminal Court for the DRC? Can the serious crimes committed after 2003 not be taken into account, especially since there are doubts about exemplary legal proceedings to discourage those responsible for the insecurity and serious violations of human rights? (VERS UN TRIBUNAL: 2000).

From the outset, one has the impression that only the Security Council has the right to create an International Criminal Court. This is completely false. Does the International Criminal Court need the agreement of the Security Council to be created? It is only sovereign states that have taken this decision. Moreover, each sovereign State has the right and the absolute obligation to repress any crime perpetrated on its territory. Thus, for example, according to article 530 of the Code of Military Justice, whoever is accused of destroying all or part of a nation, an ethnic group, a religious or political group (physical genocide), or proceeding to slowly suffocate the group by limiting or preventing births, for example by systematic measures of sterilization (biological genocide), or finally eliminating progressively ethnic and cultural characteristics (intellectual genocide), must be punished with the death penalty (REPUBLIC OF ZAIRE: 1972). Such legal provisions repressing crimes of an international nature are found in several national legal instruments. Therefore, the criminal repression of any international crime is above all a discretionary act of any sovereign institution. Finally, this repression can be the object of a pooling of actions and wills of States. Thus, at least two States can decide to create a judicial body for the repression of international crimes without the prior authorization of the Security Council. Since the Security Council intervenes in the field of international peace and security, it will have the obligation to cooperate with those States that have exactly the same obligation based on the United Nations Charter. This

constitutes one of the driving purposes of the United Nations: "To maintain international peace and security and to this end: to take effective collective measures for the prevention and removal of threats to the peace and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.

Thus, the creation of an international criminal jurisdiction is originally the intrinsic and inherent competence of the State power. The Security Council can only intervene subsidiarily in cases of emergency and force majeure, because the rights and competences it has in this area are only indirectly conferred upon it. The main holders of these jurisdictional powers in international law are and can only be sovereign States. Hence, the first and fundamental initiative to create an International Criminal Court for the Congo must come from the Congolese government.

Since the idea of setting up repressive institutions for crimes committed in the DRC, every citizen is invited to the public debate to actively participate. Lawyers have the noble mission to formulate their suggestions, to bring about a great gathering around this humanitarian enterprise that aims to establish a world of secure peace.

Since 1945, the contemporary system of international law has seen the development of International Humanitarian Law and, in its wake, International Criminal Law, which aims to analyze "the way in which the international legal order reacts to crimes involving an element of internationality (ASCENSIO (H.), DECAUX (E.) and PELLET (A.) (eds.): 2000) and/or a set of institutions that organize the prosecution and punishment of persons who have violated certain norms of international law, directly and by virtue of that same international law (GLASERS.: 1954; PLAWSKY S.: 1972). The jurists, being called to work for the doctrinal and technical development of the International Criminal Law, must conduct research on its origin, foundation, functioning and evolution for a better implementation of its institutions; the term institution being understood here in the sense of institutions-mechanisms, which are considered as bundles of rules governing a certain institution-organ or a given legal situation (GUINCHARD S., DEBARD Th. (dir.): 2017).

In this dynamic, the deciphering of the idea of "repression of international crimes committed in the Democratic Republic of Congo" invites to answer two fundamental questions: What are the international crimes that have been committed in the Democratic Republic of Congo that require the intervention of a national, mixed or international vigilante? A second question linked to the first is to indicate the mode of establishment of the judicial jurisdiction, the structure and nature of this judicial institution and the competencies that will be vested in it. The whole process of finding answers to these questions must always take into account the extent of the very destructive violence committed during ten years (1993-2003) of conflict over a very vast territory, a selection of the most serious incidents. Each incident listed must be capable of revealing the commission of one or more serious violations of human rights and international humanitarian law localized in time and space. Occasionally, a wave of individual violations (e.g. arbitrary arrests and detentions, summary executions, collective and selective deprivation of life, etc.) is considered an incident. In order to select the most serious incidents, those revealing the commission of the most serious violations, a severity scale similar to that used in International Criminal Law is used to identify the most serious situations and crimes that should be investigated, thoroughly analyzed and prosecuted. The scale of gravity provides a series of criteria to identify those incidents that are serious enough to be objectively included in the object of this reflection. These criteria interact with each other. None of them is decisive in itself and all of them can justify the decision to consider the incident as serious.

The criteria used to identify the most serious crimes prohibited by contemporary international law fall basically into four categories, according to contemporary practice:

a) **The nature of the crimes and violations revealed by the incident:** Each incident listed must reveal the commission of one or more crimes under international law, namely war crimes, crimes against humanity, the crime of genocide and other crimes that constitute serious violations of human rights. All of these crimes must be classified according to the objective scale of gravity, which must have the ambition to retain the violations of the right to life as the most serious

(murders, massacres, summary executions, etc.), followed by violations of the right to physical and psychological integrity (sexual violence, torture, mutilation, bodily harm, etc.), the right to liberty and the right to life.), the right to liberty and security of person (arbitrary arrest and detention, forced displacement, slavery, recruitment and use of child soldiers, etc.), the right to equality before the law and equal protection of the law without discrimination (persecution) and, finally, violations related to the right to property (destruction of civilian property, looting, etc.).

b) **The extent of the crimes and violations revealed by the incident:** Each recorded incident should reveal the commission of many crimes causing many victims. The number of crimes committed and the number of victims are taken into account in determining the seriousness of the incident. Also, it is important to consider the frequency and regularity of the incident.

c) **How the crimes and violations were committed:** Crimes and violations of a widespread nature, committed in a systematic manner, targeting a specific group (vulnerable groups, ethnic groups, political groups, etc.), indiscriminate/disproportionate attacks resulting in large numbers of civilian casualties, all contribute to raising the level of seriousness of an incident.

d) Finally, **the impact of the crimes and violations that have been committed:** Apart from the number of victims of the crimes revealed, some incidents can have a devastating impact in the context, either by triggering conflict, threatening ongoing peace efforts, preventing humanitarian relief or the return of refugees or displaced persons, etc. The regional impact of an incident or its consequences on a specific community, its particular significance for certain groups (ethnic, political, religious, etc.) can also contribute to its degree of seriousness.

The use of this categorization leads us to identify the main crimes that were allegedly committed in the Democratic Republic of Congo. The Mapping Report concludes that three international crimes have been identified:

1- **War crimes**, which are generally understood as all serious violations of international humanitarian law committed against civilians or enemy combatants during an international or internal armed conflict, violations which entail the individual criminal responsibility of their perpetrators. These crimes are essentially derived from the Geneva Conventions of August 12, 1949 and their Additional Protocols I and II of 1977 and from the Hague Conventions of 1899 and 1907. Their most recent codification is found in Article 8 of the Rome Statute (ROME STATUTE: 1998) of the International Criminal Court (ICC), Article of the ICTY Statute (Annex: S/Res.827 (1993)) and Article 4 of the ICTR Statute (Annex. S/Res.955 (1994)).

2- **Crimes against humanity** have been observed in several places in the armed conflicts that have plagued the Democratic Republic of Congo. They are codified in paragraph 1 of Article 7 of the Rome Statute of the ICC. They are defined as acts such as murder, extermination, rape, persecution and all other inhumane acts of a similar character intentionally causing great suffering or serious injury to body or to mental or physical health committed "as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack" (BOUCHET-SAULNIER (F.): 1998).

3- **As for the crime of genocide**, since its first formulation in 1948, in article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide, the definition of the crime has remained essentially the same. It is found in Article 6 of the Rome Statute, which defines the crime of genocide as "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such". This definition is followed by a series of acts that represent serious violations of the right to life and physical or mental integrity of the members of the group. The Convention also provides that not only the execution as such, but also the conspiracy to commit genocide, direct and public incitement, attempt and complicity are punishable (CPRCG: 1948). It is the specific intent to destroy a group mentioned in whole or in part that distinguishes the crime of genocide from the crime against humanity. The existence of acts of genocide committed in the DRC has been documented in 104 incidents. Based on the jurisprudence in force, we realized that "among the factors, facts and circumstances retained by the international tribunals to infer or deduce a genocidal intent, we note the general context, the perpetration of other reprehensible acts systematically directed against the same group, the scale and number of atrocities

committed, the fact that certain victims were systematically targeted because they belonged to a particular group, the fact that the victims were massacred without regard to their age or gender, the coherent and methodological manner in which the acts were committed, the existence of a genocidal plan or policy and the recurrence of destructive and discriminatory acts", are found in the case of the extermination of Hutus (Rwandan and Burundian refugees and Hutus of Congolese nationality).

4- In addition to these three crimes highlighted by the Mapping Report, a gap can be raised. All of these crimes were committed against a background of violence, a background of armed conflict. The qualification of this conflict has been discussed enough to specify whether it is a non-international armed conflict or an international armed conflict. In any case, it is common knowledge that it was the National Armies of Rwanda, Burundi and Uganda that unleashed the hostilities in the Congo (SPEED D.: 2010). Throughout this Mapping Report, it is always stated that the RPA (Rwandan Patriotic Army), the NRA (National Resistance Army) and the FAB (Forces Armées Burundaises) are on the front lines in the DRC. At one point, the RPA and NRA fought in Kisangani in the DRC (STEENBERGHE R. Van: 2006). On February 9, 2022, the International Court of Justice issued a judgment enjoining Uganda to compensate the victims of its military activities on Congolese territory, especially when it fought with the RPA in Kisangani (I.C.J. Reports 2022). The combatants in this conflict were foreign armed forces, all of whom were led by a commander-in-chief and wore a uniform identical to that of the national army of their country of origin. On the basis of these few fragmentary elements, we can see that the Democratic Republic of Congo was subjected to a **war of aggression**. Therefore, the rulings issued by the International Court of Justice and further analysis will lead to the assertion that a fourth crime has been committed in the Democratic Republic of Congo: the crime of aggression.

Finally, the other question, and not the least, to which a solution will have to be found in order to repress criminally, correctly with a guarantee of resources, the international crimes we have just mentioned is to specify the jurisdictional bodies to which this mission would be entrusted. These bodies are undoubtedly unavoidable if impunity is to be combated. The legal duty to protect the victim in all things requires action. To achieve this, in the situation that concerns us, it is important to answer four sub-questions that derive from the previous one:

1- **What is the state of the Congolese repressive system?** Is it able to logically carry out this noble mission? Are the criminal chambers in its courts and tribunals sufficiently equipped to judge the authors of international, foreign and national crimes? Indeed, the justice system of the DRC is undermined by corruption, the lack of independence of judges and magistrates, the dilapidated infrastructure, the absence of training structures for new magistrates and the lack of continuous training for old magistrates. The Congolese justice system is unable to deal with the legacy of crimes and serious human rights violations inherited from successive wars. And yet, it is essential that justice be rendered to the victims so that they can consider that society has recognized their suffering, their pain, even if there is not sufficient reparation, knowing that any reparation is always symbolic.

Moreover, justice in the Democratic Republic of Congo is characterized by the lack of application of the various legal texts and therefore by arbitrariness in all its forms, materialized by arbitrary arrests, illegal detentions and serious and massive violations of human rights (KAZADI MPIANA J.: 2012; FOFE DJOFIA MALEWA J.P.: 2012) ... How then to prosecute those guilty of international crimes with all this avalanche of evils that abound in the Congolese justice? A profound and well conducted reform of the entire judicial system is needed to achieve this. While waiting for this reform, which has been announced for several years now, some victims die, others have moved to several places. And even, some of the perpetrators are also dead, the evidence is fading, others are destroyed. It is therefore impossible, in the current state of justice, to envisage the prosecution of these crimes by national courts (KITOKO F.: sd)

To this end, the Civil Society Organizations plead for an increase in the budget reserved for justice, and for the reinforcement of the logistical and technical capacities of the institutions of the justice sector. They advocate for the adoption of important laws that guarantee that the law will be

properly applied and that the victims and affected communities will obtain compensation for the damages they have suffered. Finally, they invite the Government to make intelligent use of experiences from elsewhere (LAUCCI C.: 2000; MARTINEAU A.Ch.: 2007; ASCENCIO H., Elisabeth Lambert ABDELGAWAD L., SOREL J.M.: 2006).

2- **Since the Congolese Judicial System is deficient, does this mean that the perpetrators of crimes should go unpunished?** By virtue of the duty to protect the victims, would it not be better to consider reforms to the judicial system or to resort to international justice to support the national justice system? It is advisable to also use the international model while reforming the judicial system.

Two phenomena have contributed - after the end of the Cold War - to the resurgence of the idea of international criminal justice. On the one hand, the crimes committed in the former Yugoslavia and in Rwanda led to the creation of two ad hoc international criminal tribunals by the United Nations. On the other hand, some European States have adopted laws of universal jurisdiction, which allow them to prosecute persons presumed responsible for crimes that had previously gone unpunished, even if these crimes were not committed on their territory, such as the case of General Pinochet.

These two events, and their echo in public opinion thanks to the media and the work of NGOs, contributed to the revival of the idea of creating a permanent and independent jurisdiction; the Rome conference, held from June 15 to July 17, 1998, gave birth to a new jurisdiction, the International Criminal Court.

This institution, which came into force on July 1, 2002 after the deposit of the sixtieth ratification by the DRC on April 11, 2002, has jurisdiction to prosecute persons suspected of having committed war crimes, the crime of genocide, crimes against humanity and soon the crime of aggression. This jurisdiction cannot be activated automatically; it is limited by the theory of complementarity that must characterize the judicial relations between the states that have ratified the Rome Statute and the ICC. Also, the ICC cannot prosecute all persons suspected of having committed the crimes under its jurisdiction because the founding text of the ICC provides that it can only prosecute the most senior officials (ROME STATUTE: 2002). Even then, the ICC will not be able to prosecute all of the highest-ranking officials because of its budget, which cannot afford to do so, and also because of its small staff. Thus, the "small fish" must be prosecuted by national jurisdictions and the other "big fish" will not fall into the ICC's net.

In the case of the DRC, this is not possible given the current state of the national justice system. A profound and well-conducted reform of the judicial system is needed to consider the possibility of prosecuting those suspected of having committed international crimes in national courts. The International Criminal Court is not in a position to prosecute all the people who have committed the crimes under its jurisdiction in the DRC because of the limitations we have just mentioned above. Another mechanism must be found that can prosecute these offenders. The International Criminal Court has already prosecuted five people, including four Congolese, suspected of having committed international crimes on DRC territory. What will happen then to the 600 people already suspected of having committed more than 617 crimes, which are well documented by the "Mapping Report"? If nothing is done on the margins of the International Criminal Court, there is reason to fear that another form of impunity will take hold in the Great Lakes region of Africa.

In any case, the Congolese must find a mechanism so that crimes committed on their territory cannot go unpunished. International criminal justice remains essential. Indeed, international criminal jurisdictions mark one of the spheres of international relations where the recognition of universal legal principles is taking shape. The very idea of international justice is based on the postulate that certain crimes are so serious that they touch the essence of humanity. The principle *fiat justitia ne pereat mundus* (let justice be done so that the world does not perish) enunciated by Hegel is then applied: the repression of these crimes is so important that it must absolutely take place, even if it means organizing it at the international level, beyond national sovereignty. International justice thus has a strong symbolic value: that of the refusal of the "international

community" as a whole to see genocide, crimes against humanity, crimes of aggression and war crimes go unpunished. Its realization, although still limited, demonstrates that such legal principles are being taken into consideration in international relations, no doubt in response to the concerns of public opinion, relayed or fueled by certain media and non-governmental or humanitarian organizations, which use public opinion as a powerful lever (APTEL C.: 2007).

3- If this initiative is impossible and unfeasible, the Democratic Republic of Congo must face another possibility: **the creation of an International Criminal Court**. This is something it has already initiated politically, not strategically. Should we be satisfied with an International Criminal Court for the Congo? This question is extremely crucial. Has the one created for Rwanda fulfilled its mission? It seems realistic that this jurisdiction will be created for an indefinite period. The history of the Great Lakes Region attests to the fact that genocide is a social fact that has become rooted in the practice of certain military policies in the Region. The genocidal act originated in Rwanda in the 15th century. After the conquest of independence in 1960, with the fall of the monarchical regime in Rwanda, the practice of genocide spread to Burundi, Congo, Uganda... Certain acts similar to this practice have been observed in Tanzania. Moreover, this genocidal practice has rallied sister ethnic groups in these countries. Thus, it will be noted that the genocide of the Baganda was committed by the Rwandan Tutsis with their Hima brothers. The Rwandan genocide was committed in solidarity with the Hema, the Tutsis of Rwanda, Burundi and the Democratic Republic of Congo. The Burundian genocides benefited from the support of the Rwandan Tutsis. The extermination of the Congolese Bantu was made possible by the alliance between the Tutsis of the entire region. Therefore, if it is necessary to undertake the creation of an international jurisdiction to eradicate this evil forever, it is imperative that this jurisdiction be regional or be put in place for as long as it takes to purge the African Peoples of the Great Lakes of all the people who fuel these crimes. Thus, the countries of the region will have the obligation to oppose any idea that would seek to limit its jurisdiction *rationne materiae, temporis, loci* and *personae*. This jurisdiction would be created on the basis of a regional agreement that would seek the support of the international community.

In order to attract the support of the international community to this ongoing initiative, it will be necessary to multiply awareness campaigns, information meetings and mobilization of various organizations, both non-governmental and governmental, throughout the world and in particular in countries that can influence the urgent launch and implementation of multi-faceted actions to ensure the triumph of Truth, Justice and Reconciliation for all victims of the crimes documented in the "Mapping Exercise" in the Democratic Republic of Congo. Thus, it will be necessary to consider a plan or means of working with different types of groups supporting this initiative in the countries concerned by the initiative.

In order to reconcile all the citizens of the Great Lakes region of Africa, it will be urgent to resort to another form of dialogue at the level of the entire region and of each country. The foundation of these true and constructive exchanges should lead to the discovery of several truths that would originally lead to the search for peace, justice and especially good cohabitation with all human beings.

4- The foundation of the search for truth, materialized by the truth and reconciliation commission, is political and legal. The process is open, civil and civic, and is at the service of the national community. The last thirty years have seen many of the dictatorial regimes give way to democratic evolution in some states deeply permeated by civil war and massive human rights violations. In order to facilitate the transition from war or dictatorship to stability characterized by non-war or democracy, and to enable the population to come to terms with a painful past, many of these new governments have resorted to an extrajudicial process: truth commissions.

Truth commissions perform a very different function from that of judicial institutions. They take a much broader view of human rights crimes and violations and seek to understand the root causes of the crimes or violations that are the subject of the truth-seeking process. Whereas judicial bodies, by definition - and although their role is essential - focus only on specific crimes and their perpetrators.

Truth and reconciliation commissions are official, temporary institutions set up to investigate past violations of human rights and international humanitarian law. They are given varying degrees of mandate. They are generally charged with investigating these violations and recommending reforms to prevent their recurrence. They encourage public acknowledgement of crimes that are often denied or kept secret by the perpetrators. They put the victims at the center of their work.

Truth and Reconciliation Commissions educate by explaining that one does not reconcile with someone one agrees with, but rather with someone one disagrees with. Giving voice to the victims and making the perpetrators speak, who are all present by mutual consent, recognizing and repairing the harm experienced by the former and forgiving the latter, such is its mission which distinguishes it from that of the courts and tribunals.

It is not a question of confronting evidence against evidence as in the courts, but of letting the facts come out. They listen to the victims as well as the perpetrators. They investigate the circumstances, the environment and the causes, they try to establish the political and moral responsibility of the authors.

It is up to the victims to express themselves first, to tell what they have experienced and suffered. But beyond the story, the commission aims at restoring the dignity of the victim, at reparation and reconciliation to the extent possible.

The truth commissions pay particular attention to the commitments of those who want to make reparation for their wrongdoing, so that they keep their word. They insist on the awkwardness that parties must overcome when they refuse to recognize the contribution of others because they do not belong to their camp (COURTOIS G.: 2009). They emphasize the responsibility of the socio-professional groups that have benefited from the situation.

In order to understand the place that the notion of forgiveness occupies in Truth and Reconciliation Commissions, we must follow the fine analysis of Antoine Garapon (GARAPON A.: 2001). To be sensitive to the fact that South African reconstructive justice brings into play "a combination of the judicial and the extra-judicial, a mixture of law and politics, law and anthropology, law and psychology", even law and theological morality. It practices a deformed law that does not shy away from the staging of emotions, revealing a contrario "the emotional poverty of law". It goes beyond positive law by "reviving all that the latter had repressed - vengeance, forgiveness, religion in law - not to go backwards but, on the contrary, to go beyond the past". It is a justice of "recognition" in the double sense, vertical, where it imposes the admission of terrible facts, and horizontal, where it engages people in a reciprocity of mutual recognition (GARAPON A.: 2001).

Truth commissions also have their weaknesses. Sometimes the psychosocial and therapeutic support is deficient, reparation is a delicate matter: the social fabric, the State is not always able to ensure it. Reconciliation remains a long-term process.

The political class of the Democratic Republic of Congo, meeting in Sun City, South Africa, during the inter-Congolese negotiations, reached a consensus known as the global and inclusive agreement. One of the resolutions of this agreement recommended the creation of institutions to support democracy and among these institutions was the truth and reconciliation commission. Thus, a truth commission was created in the DRC.

Unfortunately, the commission, although established, did not accomplish the mission for which it was created for two main reasons. On the one hand, some of the members of the commission's bureau had participated, as rebels, in the commission of serious human rights violations, either directly or as a line manager. This situation was not conducive to the emergence of the commission's work. On the other hand, the lack of vision of the chairman of the said commission who had no knowledge of transitional justice issues until his appointment to this position. Thus, a lot of time and money were lost and spent on training missions abroad to learn the basics of transitional justice. Also, he had no reputation and did not have the support of the population to do this job well, especially since he himself was not known in Congolese national opinion except within his church in Bukavu.

It should also be noted that the establishment of the aforementioned commission did not respect the process generally followed and accepted in the creation of truth commissions throughout the world, in particular the consultation of the population as to whether or not such a commission was justified. For our part, we consider that the truth and reconciliation commission of the DRC has never existed. To paraphrase Professor Joseph Yav, we would say with him that there has been in the DRC "an omission of truth and reconciliation" (CCJT Report: 2005).

In view of the crimes committed in the DRC and the number of victims who are waiting for justice, the DRC must create a truth and reconciliation commission worthy of the name. However, this can only be possible if there is political will to create this institution and if the principles universally recognized and accepted in the process of creating such a commission are respected.

Finally, the person who will be appointed to lead the commission must not only be the subject of a great consensus at both the political and civil society levels, but must also enjoy a great reputation in order to lead the work of the commission to a successful conclusion. Only under these conditions can the DRC have a true truth and reconciliation commission that can do a good job.

At the end, how do we deal with the major obstacles that already stand in the way of the repression of international criminals in the DRC? Won't the foreign powers, some of whom have always been involved in committing acts energetically prohibited by international law and who are also the major decision-makers in the UN for the establishment of the international repressive institution, torpedo this action? Will the national and international groups targeted by the Mapping Report remain inert without trying to get their legs under them to escape justice?

It is therefore conceivable that the road to repression of international crimes committed in the DRC is still long, but not impossible. The will, the determination and the courage of peace-loving men and women who are concerned about fighting, destroying and eradicating impunity forever for a world where conviviality reigns and strict and absolute respect for the rights of all men.

References

1. Activités armées sur le territoire du Congo (République démocratique du Congo c. Ouganda), arrêt, C.I.J. Recueils 2022, le 09 février 2022.
2. Annexe à la Résolution S/Rés.827 (1993) du 27 mai 1993, Tribunal Pénal International pour l'ex-Yougoslavie
3. Annexe à la Résolution S/Rés.955 (1994) du 8 novembre 1994, Tribunal Pénal International pour le Rwanda
4. APTEL Cécile, « *Justice pénale internationale : entre raison d'Etat et Etat de droit* », « Revue internationale et stratégique », IRIS éditions, 2007/3 N°67, pages 71 à 80
5. ASCENSIO (H.), DECAUX (E.) et PELLET (A.) (dir.), *Droit international pénal*, Paris Éd. Pedone, 2000, p.21-23
6. ASCENCIO H., Elisabeth Lambert ABDELGAWAD L., SOREL J.M, Les juridictions pénales internationalisées (Cambodge, Kosovo, Sierra Leone, Timor Leste), Vol 11, Société de législation comparée, Paris, 2006
7. BAKAJIKA B. T., *Epuration ethnique en Afrique: Les « Kasaiens » (Katanga 1961 - Shaba 1992)*. Paris, Le Harmattan, 1997
8. BRASSINE DE LA BUISSIERE Jacques, *La sécession Katanga : témoignage, juillet 1960-janvier 1963. Outre Mers, Bruxelles, 2016*
9. BOUCHET-SAULNIER (F.), *Dictionnaire pratique du droit humanitaire*, Paris, la Découverte, 1998 ;
10. BUCYALIMWE Mararo Stanislas, « *Julius Nyerere, Yoweri Kaguta Museveni, Paul Kagame et John Garang : aux sources de la déstabilisation de la RDC* », in *Le Kivu, un enjeu régional dans la guerre du Congo-Kinshasa. Etat des lieux en 2016 et Perspectives*. Edilivre, novembre 2016, pp.35-16.

11. CHIRHALWIRWA kagwi Milikuza, « *L'opinion publique psychologiquement préparée à un génocide des Peuples du Kivu par les TUTSI* », in Forum Baraza La Kivu CT.405.SUCC. ST.Michel, Québec, Canada, H2A 3N1, p. 6
12. CHOSSUDOVKY Michel, *Mondialisation de la pauvreté et nouvel ordre mondial. Montréal, Ecosociété, 2003. Chapitre VII : Le génocide économique au Rwanda, pp. 130-131, 134-135 ;*
13. CHOSSUDOVKY Michel, « *Rwanda: Installing a US Protectorate in Central Africa* », in *Global Research*, 8 May 2003;
14. CIJ : Affaire de la RDC contre l'Ouganda, Rwanda, Burundi
15. CPRCG- Convention pour la prévention et la répression du crime de génocide 1948, art. 3.
16. COURTOIS G., « *Le pardon et la Commission Vérité et Réconciliation* », *Droit et cultures* [En ligne], 50 | 2005, mis en ligne le 06 juillet 2009, Consulté le 24 août 2010
17. E/CN.4/1997/6/Ad.2 Rapport sur la situation des droits de l'homme au Zaïre, présenté par M. Roberto Garretón, Rapporteur spécial, conformément à la résolution 1996/77 de la Commission, p.14,§ 52
18. FOFE DJOFIA MALEWA J.P, Justice pénale et réalités sociétales : De l'analyse du modèle R D Congo à la formulation d'une politique criminelle participative, Paris, Le Harmattan, 2007
19. GARAPON A., Et ce sera Justice, troisième partie, Paris, Odile Jacob, 2001.
20. GLASERS., Introduction à l'étude du Droit International Pénal, Préface de A.L. Goodhart, Ed. Bryuland, Bruxelles, Librairie du Recueil Sirey, Paris, 1954, 207p. ;
21. GIBBS D., *The Political Economy of Third World Intervention: Mines, Money, and U.S. Policy in the Congo Crisis*. American Politics and Political Economy Series, 1st Edition, 1991 ;
22. GUINCHARD S., DEBARD Th. (dir.), *Lexique des termes juridiques 2017-2018*, Paris, Editions Dalloz, 2017, p.219 ; voir également www.editions-dalloz.fr
23. HARMON SNOW Keith, *The Plunder and Depopulation of Central Africa*, *The Internationalist* 360°, 7 March 2012
24. Haut-Commissariat des Nations Unies aux droits de l'homme (HCDH), « *Les instruments de l'état de droit dans les sociétés sortant d'un conflit: Les poursuites du Parquet* », Nations Unies, New York et Genève, 2008, p. 6.
25. HAUT CONSEIL DE LA REPUBLIQUE- PARLEMENT DE TRANSTION, Rapport de la commission d'information du HCR-PT sur la situation des réfugiés et des populations déplacées dans les régions du Nord- et du Sud-Kivu, Kinshasa, 30 novembre 1994, p. 105-118.
26. KAZADI MPIANA J. « *La Cour pénale internationale et la République Démocratique du Congo : 10 ans après. Etude de l'impact du Statut de Rome dans le Droit Interne congolais* », *Revue québécoise de droit international*, 25.1.2012.
27. KENNES, E., "Du Zaïre à la R.D. du Congo: la vieille termitière terrassée par le vent de la savane", *Afrika Focus*, Vol. 13, nr. 1-4, 1997, p. 31-44.
28. KITENGE KYUNGU Junior, « *Enjeux sur la création du tribunal pénal international pour la RDC : Focus sur le Rapport Mapping* », <https://www.village-justice.com/articles/les-enjeux-creation-tribunal-penal-international-pour-rdc-focus-sur-rapport,38742.html>
29. KITOKO Fr. *Quelle justice pour les victimes des crimes internationaux en République démocratique du Congo?* (cd)
30. KRUEGER Robert and Kathleen, *From Bloodshed to Hope in Burundi. Our Embassy Years during Genocide*. University of Texas Press. 1st edition, October 1, 2007;
31. LAUCCI Cyril, « *Projet de Tribunal spécial pour la Sierra Leone : vers une troisième génération de juridictions pénales internationales ?* », *L'Observateur des Nations Unies*, n° 9, 2000, pp. 195-217
32. « *Le Congo dans la guerre. Les accords tripartites Belgique, Grande-Bretagne-Etats-Unis* », in *Courrier hebdomadaire du CRISP*, 1977, vol. 35, n°781-782, pp. 1-56
33. MARTINEAU A.Ch., « *Les juridictions pénales internationalisées : un nouveau modèle de justice hybride* », Editions A. Pedone (1 mai 2007)
34. MARYSSE S. et REYNTJENS, F., Ed., *Conflits au Kivu: antécédents et enjeux*, CERGLA, Université d'Anvers, décembre 1996, 70 p

35. MASSON P., *Dix ans des malheurs au Kivu, 1957-1967. Bruxelles, Max Arnold, 1970 ;*
36. MUPENDANA P. Claver, *Le fait Génocidaire au Rwanda. Le Processus de son expansion en Afrique des Grands Lacs et les stratégies de son éradication, Editions SCRIBE Bruxelles, novembre 2018, p.37-331*
37. MUSABYIMANA Gaspard, *La vraie nature du FPR/APR d'Ouganda en Rwanda, Paris, Le Harmattan, 2003, pp.7-9 [273p.]*
38. MUTABAZI Etienne, *La Responsabilité internationale appliquée à l'agression perpétrée contre le Rwanda en octobre 1990 septembre 1990, p. 63-65 [95p] ;*
39. MUTUZA KABE Raymond, « *L'idéologie hima-tutsi et la crise des Grands Lacs* », in *La crise dans la sous-région des pays des grands lacs africains: état de la question et perspectives de paix. Actes du premier symposium international de l'Université de Kinshasa, Volume I (Presses Universitaires de Kinshasa, 2009 ;*
40. NDANYUZWE Noël, *La guerre mondiale africaine : la conspiration anglo-américaine pour un génocide au Rwanda. Editions Sources du Nil, 15 juin 2014*
41. NERETSE E. et MUABYIMANA G., « *Des personnalités décorées à Kigali le 4 juillet 2010 sont des fossoyeurs du peuple rwandais* », www.musabyimana.net du 11 juillet 2010 etc...
42. NGBANDA Honoré, *Crimes organisés en Afrique centrale. Révélation sur les réseaux occidentaux et rwandais. Editions Duboiris, 2005 ;*
43. NGBANDA Honoré, « *Retour sur les dossiers noirs de Léon Kengo wa Dondo durant la 2^{ème} République: devoir de mémoire oblige* », <http://kongolibre.over-blog.com/2015/12/retour-sur-les-dossiers-noirs-de-leon-kengo-wa-dondo-durant-la-2eme-republique-devoire-de-memoire-oblige.html>
44. ONANA Ch., *Les Secrets de la Justice internationale, Enquêtes truquées sur le génocide rwandais - Duboiris Publishers, Paris, 2005, pp. 256-257 [477p] ;*
45. ONANA Charles, *Ces Tueurs Tutsi. Au Coeur de la Tragédie Congolaise. Paris, Editions Duboiris, 30 avril 2009 ;*
46. PEANT Pierre, *Noires fureurs, Blancs menteurs -- Ed. Mille et une nuits, département de la Librairie Arthkme Fayard. Paris Nov. 2005. pp. 49-59 [544] ;*
47. PHILPOT R., *Ça ne s'est pas passé comme ça à Kigali, Montréal, Les Editions les Intouchables, 2003, pp.28-42 [224]*
48. PHILPOT Robin, *Rwanda and The New Scramble for Africa: From Tragedy to Imperial Fiction. Baraka Books, December 20, 2013 ;*
49. PLAWSKY S., *Etude des principes fondamentaux du droit international pénal, Paris, L.G.G.J., 1972, 225p.*
50. PRUNIER, G., « *L'Ouganda et le Front patriotique rwandais* » in GUICHAOUA, A. (dir.), *Enjeux nationaux et dynamiques régionales dans l'Afrique des Grands Lacs, Université de Lille, Faculté des Sciences économiques et sociales, 1992, p.45.*
51. *Rapport-CCJT du Séminaire sur les chambres spécialisées mixtes au sein des juridictions congolaises, organisé par la Coalition Congolaise pour la Justice Transitionnelle (CCJT) en collaboration avec l'International Center for Transitionnel Justice et la Division des Droits de l'Homme de la Mission des Nations-Unies au Congo, Kinshasa, Centre Nganda, juin2005*
52. *République du Zaïre, Code de Justice Militaire (Ordonnance-Loi n°72/060 du 25 septembre 1972), Kinshasa, 1972, p.102.*
53. REYNTJENS Filip, *La deuxième guerre du Congo : plus d'une réédition* », in *African Affairs*, 1999, N°2, p. 12-13
54. SONDE Jean Baptiste, *Les enjeux de la crise congolaise et quelques pistes pour nous en sortir. Kinshasa, le 21 juillet 1999, p.1*
55. SPEED D., « *Nyerere's Kindergarten': Dar Es Salaam University and the Black Face of the New British Colonialism* », in *Fidelio Magazine, Winter 1997*
56. *STATUT DE ROME de la Cour pénale internationale, Doc. ONU A/CONF.183/9, 17 juillet 1998, entré en vigueur le 1er juillet 2002*

57. STEENBERGHE R. Van, L'ARRÊT DE LA COUR INTERNATIONALE DE JUSTICE DANS L'AFFAIRE DES ACTIVITÉS ARMÉES SUR LE TERRITOIRE DU CONGO ET LE RECOURS À LA FORCE, Conclusions (implicites) de la Cour », REVUE BELGE DE DROIT INTERNATIONAL, 2006/2 – Éditions BRUYLANT, Bruxelles, 2006.
58. TAOUFIK RAJHI, WIDED Hmissi, *Impact des chocs pétroliers sur les économies africaines : une enquête empirique. Houston, février 2005* ;
59. TORELLI (M.), *Le droit international humanitaire*, Paris, PUF, Coll. Que sais-je ?, n°2211, 1989.
60. « Vers un Tribunal Pénal International pour la République Démocratique du Congo », <https://audf-rdc.org/index.php/2020/09/30/vers-un-tribunal-penal-international-pour-la-republique-democratique-du-congo/>
61. Vingt et unième rapport du Secrétaire général sur la MONUC (S/2006/390)
62. WILLAME, J.C., Banyarwanda et Banyamulenge. Violences ethniques et gestion de l'identitaire au Kivu, Cahiers Africains, n° 25, Bruxelles/Paris, Institut Africain/Le Harmattan, 1997, 156 p.;
63. ZIEGLER J. «*Les Nations-Unies au Congo entre août 1960 et novembre 1962* », in Politico, vol. 27, n°4, décembre 1962, pp. 826-835

ОСОБЛИВОСТІ РОЗВИТКУ
СВІТОВОГО ГОСПОДАРСТВА ТА МЕН

УДК: 332.6+519.2

**STOCHASTIC ANALYTICAL APPROACH TO THE TIME FACTOR
CONSIDERATION IN ASSETS VALUATION**

**СТОХАСТИЧНИЙ ПІДХІД ВРАХУВАННЯ ЧАСОВОГО ФАКТОРУ У
ВАРТІСНІЙ ОЦІНЦІ АКТИВІВ**

Yakubovsky Valery V.

Doct. Tech. Sc., Professor, Taras Shevchenko National University of Kyiv, Educational and Scientific Institute of International Relations, Department of International Business (vyakubovsky@ukr.net)

Kukush Alexander G.

Doct. Phys.-Math. Sc., Professor, Taras Shevchenko National University of Kyiv, Faculty of Mechanics and Mathematics, Department of Mathematical Analysis (alexander_kukush@univ.kiev.ua)

Yakovlev Mykyta S.

PhD student, Taras Shevchenko National University of Kyiv, Faculty of Mechanics and Mathematics, Department of Probability Theory, Statistics and Actuarial Mathematics (mykyta.yakovliev@gmail.com)

Якубовський Валерій В.

докт. техн. наук, професор, Київський національний університет імені Тараса Шевченка, Навчально-науковий інститут міжнародних відносин, кафедра міжнародного бізнесу (vyakubovsky@ukr.net)

Кукуш Олександр Г.

докт. фіз.-мат. наук, професор, Київський національний університет імені Тараса Шевченка, механіко-математичний факультет, кафедра математичного аналізу (alexander.kukush@gmail.com)

Яковлев Микита С.

аспірант, Київський національний університет імені Тараса Шевченка, механіко-математичний факультет, кафедра теорії ймовірності, статистики і актуарної математики (mykyta.yakovliev@gmail.com)

Abstracts. *This paper emphasizes the important role of assets valuation in assuring the transparency and stability of financial system as underlined by the international Basel Accord on banking supervision. One of the main aspect in this respect is necessity to take into account time factor influence that is especially important for secured lending operations, insurance processes, and in general for investment purposes where duration is essential.*

Existing approaches for accounting this factor in assets valuation processes are based on empirical analyses of historical data followed by forecasts for the future time period. In this respect two main streamline of approaches are formed: based on smoothing the cyclicity of value change over time or “through cycle” type and skirting of market value evolution trend or “under cycle” type, respectfully.

In the paper, a new stochastic analytical model to consider time effect is proposed, which is based on the rational theory of warrant pricing developed by Samuelson. Analytical solution for estimation of proposed time factor Δ is presented. The influence of market value volatility, tendency of market future evolution and required level of certainty on this parameter is analyzed. General methodology of time effect assessment based on this “follow-the-cycle” type model is described.

Testing of the model applicability was demonstrated using the available information data set for the residential apartments market evolution in 2019-2021 in Ukraine which is monitored by consulting-engineering group "Veritex".

Key words: *assets valuation, prudent value assessment, secured lending, market value, Samuelson's model, stochastic modelling, time factor.*

Анотація *У статті підкреслюється важлива роль оцінки активів у забезпеченні прозорості та стабільності фінансової системи, як це визначається у Міжнародній Базельській угоді з банківського нагляду. Одним із головних аспектів у цьому відношенні є необхідність врахування впливу чинника часу, що особливо важливо для операцій із забезпеченням кредитування, процесів страхування та загалом для інвестиційних цілей, де тривалість має істотне значення.*

Існуючі підходи до врахування цього чинника у процесах оцінки вартості активів базуються на емпіричному аналізі історичних даних, з подальшим прогнозом на майбутній період часу. У цьому відношенні сформовані два основних підходи: на основі згладжування циклічності зміни вартості у часі, або типу «через цикл» на нижній кривій тенденції розвитку ринкової вартості, або типу «під циклом», відповідно.

У статті пропонується нова аналітична стохастична модель для врахування ефекту часу, яка базується на раціональній теорії варрантного ціноутворення, розробленій Самуельсоном. Представлено аналітичне рішення для оцінки запропонованого чиннику часу Δ . Проаналізовано вплив волатильності ринкової вартості, тенденції майбутньої еволюції ринку та необхідного рівня визначеності на цей параметр. На основі запропонованої моделі, яка відноситься до типу «слідування за циклом», описано загальну методологію оцінювання ефекту часу при визначенні довгострокової вартості майна.

Тестування застосовності моделі продемонстровано з використанням наявної інформаційної бази даних еволюції ринку житлових приміщень в Україні у 2019-2021 роках, яка підтримується консалтинго-інжиніринговою групою компанії «Верітекс».

Ключові слова: *оцінка вартості, консервативна вартість, заставне забезпечення, ринкова вартість, модель Самуельсона, стохастичне моделювання, часовий чинник.*

Introduction. As underlined by the International Valuation Standards Council, valuations are commonly used across the financial system including but not limited for such purposes as company listings, mergers and acquisition, funds and investments, financial reporting, auditing, secured lending, taxation, insurance, litigation, insolvency. This confirms important role of robust and reliable valuation approaches, methods and practices for the global financial system stable operation.

Summarizing the main causes of the Global Financial Crisis 2007-2009, the Basel Committee on Banking Supervision (BSBC) which operates under the auspices of the Bank for International Settlement (BIS), jointly with all other global financial institutions underlined among most influential and precipitating factors of financial system sustainability the inappropriate standards and practice of subprime mortgage operations.

In response to the deficiencies in financial regulations revealed by the last global financial crisis, the third installment of the Basel Accords (Basel III) was developed. It was intended to strengthen bank capital requirements by increasing minimum capital requirements, holdings of high quality liquid assets, and decreasing bank leverage. In particular it is stated that "...valuation must be appraised ... using prudently conservative valuation criteria..." and "... must be adjusted to take into account the potential for the current market price to be significantly above the value that would be sustainable over the life of the loan" In this respect within the EU, the Basel III recommendations have been implemented through the Regulation 575/2013 on Prudential Requirements for Credit Institution and Investment Companies.

This is one of the clear indications of necessity to consider time effect when estimating the value of assets for such purposes as collateral, insurance as well as any of the investment type in a

future projects, when duration of these projects and possible changes in value is valid being essential for their feasibility and expediency.

Coming from this, the paper's **main objective** is to review current status of time effect consideration in the assets value estimation and propose a new methodology based on Samuelson's Rational Theory of Warrant Pricing [Samuelson, 1965: 13-39], with testing of the results achieved using experimental statistical data of assets market evolution.

General importance of the reliable valuation was strongly confirmed by data from US, Europe and Japan, which identify that a half of the fall in the value of banks during Global Financial Crisis and the most recent COVID-19 effect was caused by the level of falls in Real Estate Investment Trust prices [Kohlscheen, Takats, 2020].

This item is of special importance for Ukraine financial sector. According to the National Bank of Ukraine data, the level of nonperforming loans (NPL) to total gross loans in national banking system at the beginning of 2021 was 41% that remains a burden for the banking sector, especially for state-owned banks, which accumulated over 70% of the sector's NPLs. At the same time for developed economies and neighbor East-European countries current NPL level does not exceed 6 %.

Review of existing approaches. Among key basis of value which is the fundamental premises, on which the reported values of any assets are or will be based, the International Valuation Standard (IVS) specify the following: market value, equitable value, investment value/worth, synergistic value and liquidation value. Any of them should be determined at a specific valuation date. E.g., a definition of the most widely used market value states that "market value is the estimated amount for which an asset or liability should exchange on the valuation date between willing seller and willing buyer..." It means that assets appropriate value should be determined at a fixed period of time according with the purpose of valuation.

But with market evolution under the influence of broad spectrum of influential factors, this value will violate and for any other time point it might be either higher or lower of the estimated level for this fixed time, being only occasionally at the same level. Such fluctuations of assets values are unavoidable for market economies with stochastic processes of their evolution, creating a problem of estimation a proper level of values for the application in cases where the time effect is essential. As a result, Basel III Accord and European Banking Authority (EBA) emphasize that financial institutions should not be allowed to apply solely market value concept in assets valuation practice.

With respect to the cyclical mode of value change, there are two main concepts of time effect consideration [Crosby, Hordijk, 2021: 18]. The first one is "through-the-cycle" type which averages or "flattens" the value pattern fluctuations through the time period, aiming to identify a fair economic or equilibrium value. The main application of such models covers mostly investment type of financial analyses and decisions with time effect concern.

The second one is "under-the-cycle" concept which intends to find lower "skirting" line of market value fluctuation over a given period of time. This second type of concepts is reflecting more precisely the Basel III requirements to implement prudent assessment of assets value with respect to a long-term effect. This prudent or long-term value should not exceed the market value at any time under consideration.

The most common "through-the cycle" type of approaches for the time effect consideration are those described by Nordlund [Nordlund, 2008] and Cardozo [Cardozo et al, 2017], being named as "reference value model" and "adjusted market value-AMV", respectively. Both of them are purely grounded on the previous statistical data through the identification of long-term trends based on past data available, assuming that the future would look like the past.

More recent AMV-approach is grounded on comparing asset's current market value, as reflected in an appropriate capital value index, to a long-term trend line. The regression-generated, long-term trend line is drawn dynamically rather than with historical hindsight through an inflation-adjusted capital value index [Cardozo et al, 2017].

More sophisticated “through-the-cycle” models include some consideration of the trend extension to the future with reference to the current value, with forecast of its change in coming years. This forecast is mainly based on conventional discounted cash flow (DCF) models [Burston, Burrel, 2015, Crosby, Hughes, 2011].

Among “under-the-cycle” approaches, the longest history of development belongs to the Mortgage Lending Value (MLV) approach developed primarily in Germany as far back as the beginning of this century [Grimman, 2017]. The MLV concept development and implementation was mainly driven by the Association of German Mortgage Banks (German Pfandbrief Banks-VDP) in a close cooperation with the Federal Financial Supervisory Office. Being most well established, this approach came into force in 2005 through the adoption of the German Pfandbrief Act, which regulates the determination of the mortgage lending value.

From that time this approach plays a central role in the property valuation for lending purposes in Germany, reflecting the long-term and sustainable characteristics of the collateral property disregarding any speculative elements and economically induced fluctuations in value. European countries, which to some extent follow the Germany experience in this respect, are Austria, Czechia, Hungary, Luxemburg, Poland, Slovenia and Spain.

The definition of the Mortgage Lending Value is set out in the EU Capital Requirements Regulation (CRR) No.575/2013 as: “the value of immovable property as determined by a prudent assessment of the future marketability of the property taking into account long-term sustainable aspects of the property, the normal and local market conditions, the current use and alternative appropriate uses of the property”.

In its essence MLV model is principle based. When deriving the property mortgage lending value, current transaction databases available could be accompanied by a broader analysis from the past as well as a reasonable forecast analysis to be added to arrive to the prudent sustainable value. Hence it is based on a combined consideration of available historic empirical data, current market values and future assessments, using analyses and forecasts that ignore short-term price volatility to arrive to a realistic lowest possible level of market value, which is expected in a future time horizon under consideration.

Despite of the fact that MLV is the only long-term value concept that has been developed and adopted for the secured lending purposes, its principle base led to the fact that application of the concept in different jurisdictions vary [Crosby, Hordijk, 2021; 17]. It requires development of more analytically grounded models for assessing the prudent assets value with consideration of time effect, including a stochastic nature of value change. The necessity of developments in this area was strongly underlined in a recent review manuscript steered by the international group of experts from the most recognized international valuation bodies [Crosby, Hordijk, 2021].

As any analytical approach which is oriented to be practically used, such model should be from one side based on the historical data sets available and the forecast for the reasonable period of time needed. From the other side, such data should be used for testing of the model efficiency and clarification of limitations if any.

Analytical model. The main concept of the model appeared from the fact, that the problem to find certain level of stochastically progressing processes of value change can be represented as an analytical task to find a border of this process, which will not be reached with given level of probability during the time period requested.

Denote by S_t the median market value V_{av} at moment t of the square meter of residential apartment’s area (Fig. 1). We suppose that time t is measured in months and the value $t = 0$ corresponds to the present moment of time. Based on a widely used for the description of financial markets dynamics Samuelson’s stochastic, Markov processes grounded, rational model of warrant pricing, we can write [Samuelson, 1965; Shiryayev, et al, 1994]:

$$S_t = S_0 \exp\left\{\left(\mu - \frac{\sigma^2}{2}\right)t + \sigma W_t\right\}, t \geq 0. \quad (1)$$

Here, $S_0 > 0$ is nonrandom and known, $\mu \in \mathbb{R}$ is growth factor, $\sigma > 0$ is process volatility, and $\{W_t\}$ is a Wiener process with continuous paths.

In the present case of time factor assessment in assets valuation, a rationale for the model (1) is as follows. Rewrite (1) in terms of log-values

$$X_t := \ln S_t, t \geq 0, \quad (2)$$

to obtain

$$X_t := X_0 + at + \sigma W_t, t \geq 0; \quad (3)$$

$$a := \mu - \frac{\sigma^2}{2}, t \geq 0. \quad (4)$$

Based on log-normal distribution of S_t as discussed below, it holds that $\{X_t, t \geq 0\}$ is homogeneous Gaussian process with independent increments (Fig.1). But any homogeneous Gaussian process with independent increments has a form (3) with parameters $a \in \mathbb{R}$ and $\sigma > 0$. Thus, relations (3) and (1), respectively, are reasonable in the considered problem.

With given the current value S_0 , a probability p and a time horizon $T > 0$, our goal is to find $\Delta > 0$ such that

$$P(\min_{0 \leq t \leq T} S_t \geq S_0 - \Delta) = p. \quad (5)$$

The quantity $S_0 - \Delta$ can be interpreted as a median market value S_0 of the square meter apartment's area corrected by the time factor Δ , i.e., corrected according to possible future long-term values of S_t . Thus,

$$S_t = S_0 - \Delta. \quad (6)$$

Relation (5) is equivalent to the following:

$$P(\min_{0 \leq t \leq T} (at + \sigma W_t) \geq x) = p, \quad (7)$$

$$x := \ln(S_0 - \Delta) - X_0, \quad (8)$$

with a introduced in (4).

Based on Lemma, given in [20], the value $x = x(a, \sigma, p) < 0$ can be estimated numerically from the equation

$$F(x; a; \sigma) = p, \quad (9)$$

where the left-hand side of the equation (9) for any $T > 0$, $a \in \mathbb{R}$, $\sigma > 0$ and $x \leq 0$ is given in [Shiryayev et al, 1994] as:

$$F(x; a; \sigma) := P(\min_{0 \leq t \leq T} (at + \sigma W_t) \geq x) = -\exp\left(\frac{2ax}{\sigma^2}\right) \Phi\left(\frac{x+aT}{\sigma\sqrt{T}}\right) + \Phi\left(\frac{-x+aT}{\sigma\sqrt{T}}\right). \quad (10)$$

Here, Φ stands for standard normal cumulative distribution function. Equation (9) has a unique solution for x , since the F function (10) is strictly decreasing and continuous in x , and moreover F tends to 1 as $x \rightarrow -\infty$, and $F = 0$ for $x = 0$. In applications we find an approximate solution x_p to (9), such that

$$|F(x_p; a; \sigma) - p| \leq \delta, \quad (11)$$

where δ is a given precision. This can be done by a simple dichotomy approach. After finding x_p as an approximation to x , we can evaluate parameter Δ as a time factor based on equation (7) as:

$$\Delta = S_0(1 - e^{x_p}). \quad (12)$$

Experimental data set and model testing. Initial data for the developed model parameters assessment have been taken from the information-analytical data base of Ukrainian residential market evolution, created and fed on a constant basis by the consulting-engineering group of companies "VERITEX®". The creation of a primary database is carried out by monitoring and accumulating information flows from the existing real estate market and their subsequent in-depth statistical processing. The use of modern methods of database management (PostgreSQL), geo-information systems (QGIS) and scripting library (Python) allows performing this initial analysis most efficiently.

Time range covered by this primary data base of residential apartments used for the assessment of the parameters was 30 months from July 2019 till December 2021. This period includes also two COVID-19 pandemic outbreaks fixed in Ukraine in spring 2020 and autumn 2021. Overall monthly size of the market available for Ukraine totally and tailored in this data base fluctuated between 175, 000 to 210, 000 sales propositions.

A statistical analysis of representative samples was performed first of all in relation to the main financial indicator, the cost of 1 sq. m. of the apartment's area. Application of powerful Pearson's statistical agreement criteria demonstrated the closest compliance of the general statistical sample of this financial indicator with log-normal distribution law.

Testing of this important conclusion for a large number of statistical samples including individual cities and their price clusters, as well as for different time intervals, confirmed its validity. Based on this, all further processing of the primary information database was based on determining the parameters of the log-normal distribution law adopted as theoretical law, for the whole general population of information databases of the distribution of the value of the square meter area of apartments. This general conclusion is essential also for the theoretical model proposed above keeping in mind that log-normal distribution was used initially as the basic one in the original rational theory of warrant pricing developed by Samuelson.

The overall picture of the median value V_{av} and the coefficient of variation v_v of the square meter apartment's area demonstrate evolution of those parameters in time (Fig.1). Fluctuations of the median value are quite evident with general tendency to growth, whereas the volatility of this parameter measured through the coefficient of variation is more stable in time.

In our practical case, $\tau = 1$ month, $n = 30$, and $T_0 = 30$ months. Based on data set available, we estimate μ and σ using log-returns

$$y_k := \ln \left(\frac{U_{k\tau}}{U_{(k-1)\tau}} \right), \quad k = 1, \dots, n. \quad (13)$$

It holds

$$\frac{y_k}{\sqrt{\tau}} = a\sqrt{\tau} + \sigma\gamma_k, \quad k = 1, \dots, n, \quad (14)$$

where $\gamma_k = \tau^{-\frac{1}{2}}(B_{k\tau} - B_{(k-1)\tau}), k \geq 1$, are independent standard normal variables.

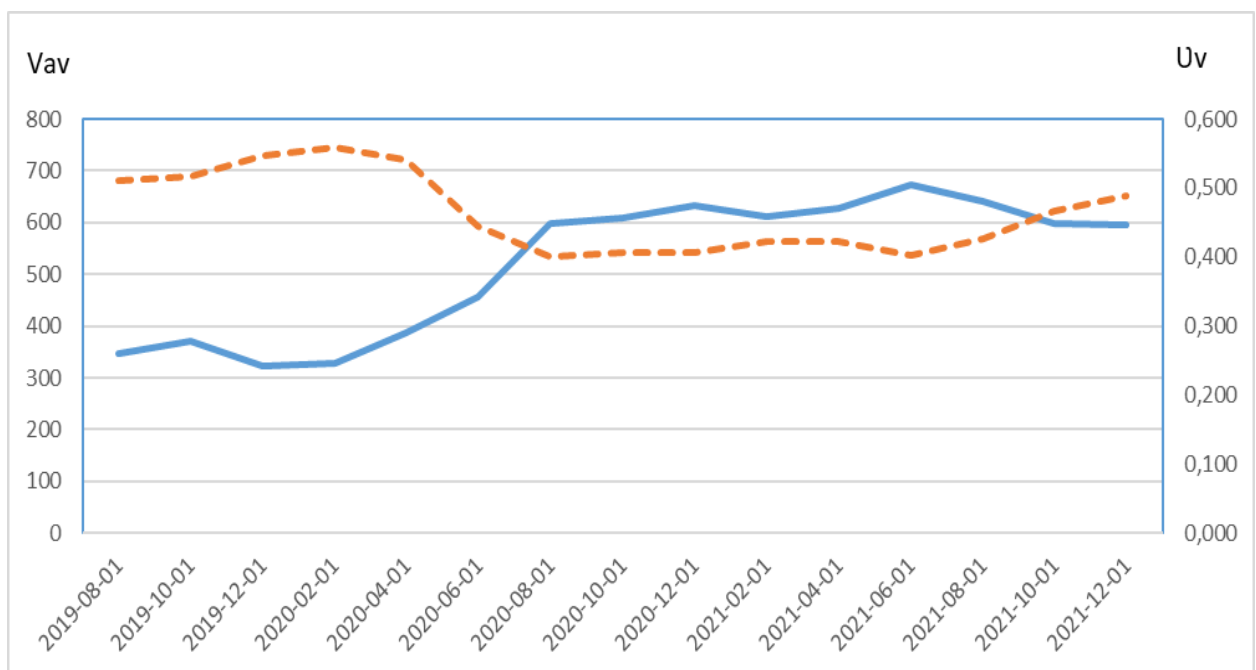


Fig 1. Time evolution of the median value V_{av} and the coefficient of variation v_v of the residential apartment's area square meter in Ukraine in 2019-2021.

For the model of observations (14), the maximum likelihood estimator of a is evaluated as

$$\hat{a} = \frac{1}{n\tau} \sum_{i=1}^n y_i = \frac{1}{n\tau} \ln \left(\frac{U_{T_0}}{U_0} \right), \quad (15)$$

and the unbiased estimator of σ^2 is as follows [19, p.66]:

$$\hat{\sigma}^2 = \frac{1}{(n-1)\tau} \sum_{i=1}^n (y_i - \tau \hat{\alpha})^2. \tag{16}$$

According to relation (4), μ is estimated as

$$\hat{\mu} = \hat{\alpha} + \frac{\hat{\sigma}^2}{2}. \tag{17}$$

Now, we are able to put $\hat{\alpha}$ and $\hat{\sigma} = \sqrt{\hat{\sigma}^2}$ instead of α, σ into (11) to obtain the estimator \hat{x}_p of x_p and finally to get estimator of Δ as

$$\hat{\Delta} = S_0 (1 - e^{\hat{x}_p}). \tag{18}$$

Due to calculations based on statistical data set available the moment $t = 0$ corresponding to 2021.12.01, the value V_{av} at that moment is equal to 914.40 USD per sq. m. Parameters μ, σ and α were estimated based on 30 month data period from July 2019 till December 2021 by formulas (15) – (17) with the following result:

$$\hat{\mu} = 0.01437613, \quad \hat{\sigma} = 0.02811884, \quad \hat{\alpha} = 0.01297019.$$

To calculate the time factor Δ , the following three values of probability p have been chosen: $p_1 = 0.6827, p_2 = 0.9545, p_3 = 0.9973$. These probability values correspond to the n sigma rule [20], namely for $\gamma \sim N(m, s^2)$, it holds $P(|\gamma - m| \leq ns) = p_n, n = 1, 2, 3$. For each probability p_n , the value of $\hat{\Delta}$ was computed due to (18), with the precision δ in (11) equal to 10^{-4} .

Fig. 2 gives an overall dependence of time factor $\hat{\Delta}$ on the declared growth parameter μ . With the same level of volatility $\hat{\sigma}$, the parameter μ varies between (-0.010) and the previously estimated from historical data set value of $(+0.0144)$, and we set $\alpha = \mu - \frac{\hat{\sigma}^2}{2}$. Here, positive μ corresponds to a growing market, $\mu = 0$ to a stagnated market, whereas $\mu < 0$ to a decreasing or “falling” market. As expected, the general tendency indicates that for larger levels of growth factor μ , the time factor $\hat{\Delta}$ is smaller. At the same time for stronger requirements as for results reliability expressed by the probability level p , the time factor is growing. For clearness purposes along the vertical axis, the values of $\hat{\Delta}$ are plotted in the lg-scale manner.

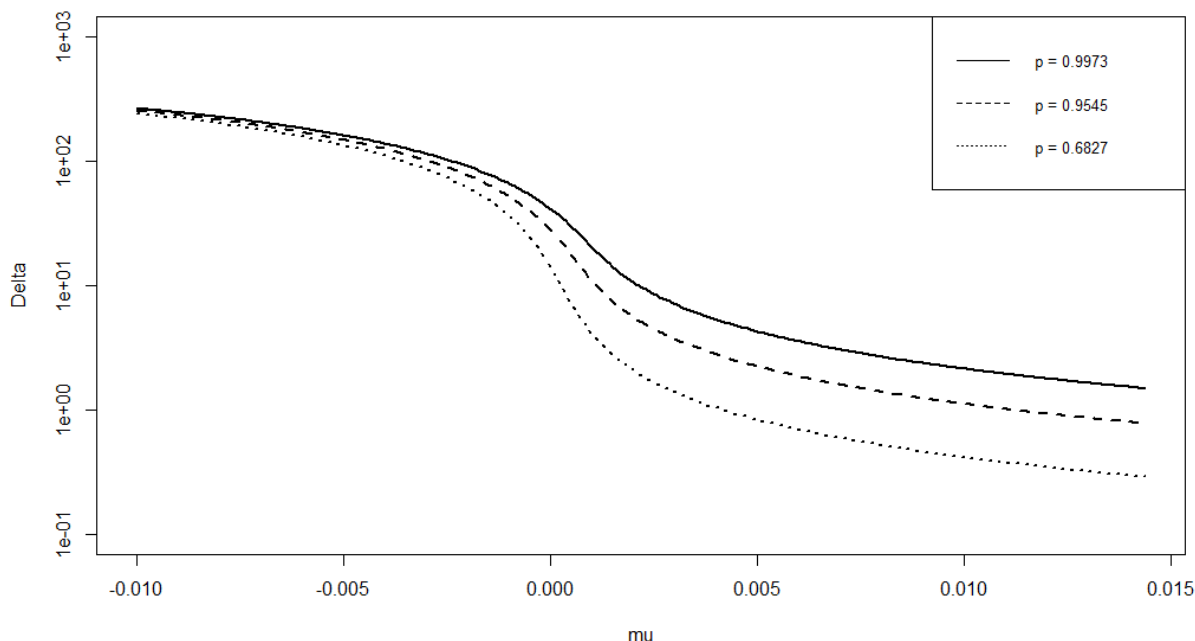


Fig.2. Dependence of time factor Δ on the growth factor m_u for different levels of probability p . Residential apartments value of 1 sq. m.

Several numerical results received for different levels of expected market growth factor μ and accepted probability level p , which confirm the general tendency mentioned above, are given in Table below.

Table

Time factor Δ level in USD/sq. m. for residential apartments expected market growth level μ and given level of reliability p .

Reliability level, $p, \%$	Growth factor, μ					
	(-0.010)	(-0.005)	(0.000)	(+0.005)	(+0.010)	(+0.015)
$p=68.27=1\sigma$	242.2759	133.7939	14.0451	0.8301	0.4151	0.2767
$p=95.45=2\sigma$	254.7213	148.2129	27.8288	2.2327	1.1168	0.7446
$p=99.73=3\sigma$	265.7558	160.9945	41.3407	4.2734	2.1392	1.4255

Strong dependence of time factor Δ from expected growth rate μ is clearly seen. For growing markets long-term correction of market price is not impressive when for suffering economies this correction should be high enough to cover their “falling” markets.

Good indication of time effect correction could be received comparing the results for stagnating markets with growth rate close to $\mu = 0$. For such case long-term correction to get asset prudent

value deviate within the range from 14.05 USD/sq. m. to 41.34 USD/sq. m depending on reliability level required (Table). To compare with median market value of Ukrainian residential apartments data base demonstrated at Fig.1 this range in percentages constitutes from 2.3 % to 6.9 %, accordingly for the year 2021 end results.

Summarizing the stated above, the proposed general approach for time effect consideration in assets valuation process could be demonstrated in Figure 3. The main task is to estimate, based on methodology developed, the level of time factor Δ for individual asset subject of analysis, using volatility level σ from market historical data registered, with expected market growth μ and reliability level p required.

Following the simple equation (6) for the collateral value estimate, this time factor should be deducted from the asset market value established by the conventional valuation methods by the IVSC/TEGoVA/RICS joint research group, underlining that “any prudent value assessment should be accompanied by the market value wherever possible, as this is a necessary benchmark requirement to accord with Basel III definition” [Crosby, Hordijk, 2021: 7].

It should be also mentioned that both existing approaches, described above, i. e., “through-the-cycle” type and “under-the-cycle” one, do not consider volatility of individual assets subject of valuation. For symmetric, for instance normal distribution of this volatility, both approaches give results with 50 % of reliability because they are based on analysis of medium or average assets market values. In contrast to this, the proposed approach includes consideration of individual asset’s volatility with possibility to get a long-term prudent value with different results reliability as required.

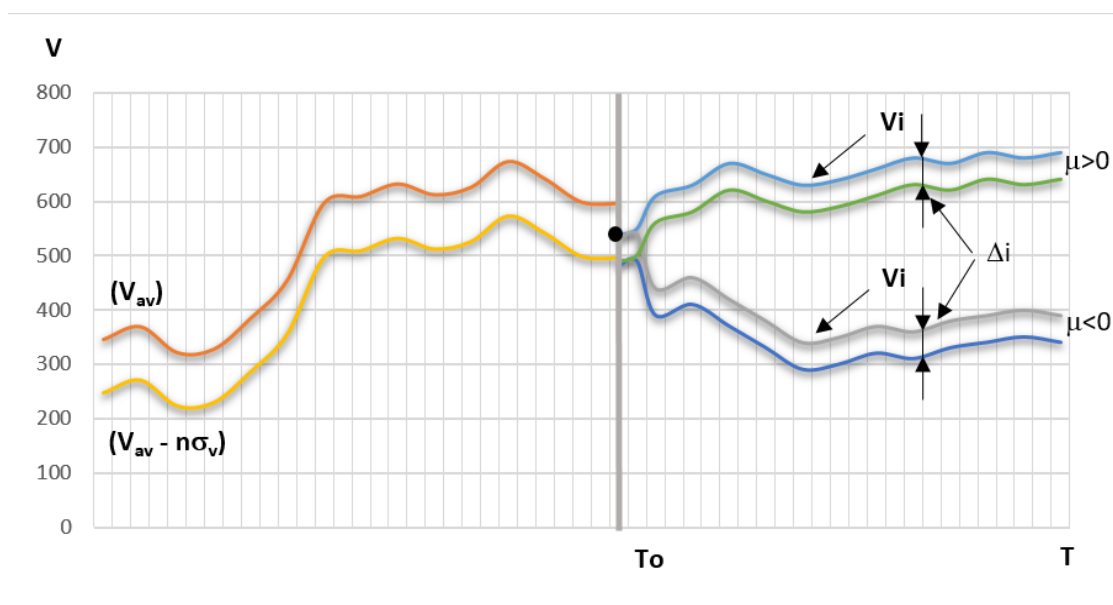


Fig.3. Schematic view of long-term prudent value estimation based on the “follow-the-cycle” approach proposed.

To demonstrate this advantage, Fig. 3 at time point T_0 starts from the market value point V_i different from median value V_{av} of the overall data set confirming consideration of individual asset market evolution. Different levels of results reliability required lead to differences in time factor Δ level as demonstrated in the Table. Estimation of long-term value within developed approach could be done for different expected tendencies in further market evolution, which is reflected by the level of parameter μ as shown in Fig.3.

In general, with such approach and given assumptions and limitations underlined above as for accepted level of certainty expressed by probability p , calculated asset's value at any moment of time horizon will not fall below its market value (Fig.3). Being quite different from existing “through-the-cycle” and “under-the-cycle” approaches, the novel proposed methodology could be referred as “follow-the-cycle” model which provides the estimate of long-term prudent value of the asset.

Concluding remarks. To summarize the main points considered, it could be stated that the problem of reliable and trustable valuation methods should take into consideration the time effect resulted from the property market evolution and volatility under the influence of different factors spectrum. This problem is directly linked with stability and transparency of financial system as underlined by the Basel Accord recommendations, which determined necessity of prudent valuation methods application for lending purposes.

Existing approaches in this sense could be represented by main groups. Those are of “through cycle” type and “under cycle type” which in both cases are empirically grounded. Moreover, any of those methods do not take into consideration the volatility of individual asset subject to its value estimation.

To avoid this drawbacks, a novel stochastic approach to the time factor consideration in assets valuation processes is developed, which is based on Samuelson's rational theory of warrant pricing. Analytical solution for assessment of proposed time factor Δ level was received with reference to the market growth expected and reliability required.

Implementation of developed approach was successfully verified using Ukrainian residential apartments market data set which is monitored by consulting-engineering group of companies “Veritex”.

Funding. A. Kukush is supported by the National Research Fund of Ukraine grant 2020.02/0026.

References

1. *International Valuation Standards Council*. Available at: www.ivsc.org/about
2. *Basel Committee on Banking Supervision, Basel III: Finalising post-crisis reforms*, 2017. Available at: <https://www.bis.org/bcbs/publ/d424.pdf>
3. *Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012*. Text with EEA relevance. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R0575>
4. *National Bank of Ukraine*, Financial stability data. Available at: <https://bank.gov.ua/en/stability/npl>
5. *The World Bank*. Nonperforming loans by countries. Data. Available at: <https://data.worldbank.org/indicator/FB.AST.NPER.ZS>
6. *International Valuation Standards (IVS)*, International Valuation Standards Council, 2021. - p. 22.
7. *European Banking Authority*. Policy Advice on the Basel III Reforms: Credit Risk Standardized Approach and IRB Approach, 02 August 2019. Available at: <https://www.eba.europa.eu/sites/default/documents/files/documents/10180/2886865/d383ee58-8665-4f8b-99d3-058984c2711e/Policy%20Advice%20on%20Basel%20III%20reforms%20-%20Credit%20Risk.pdf?retry=1>
8. *Burston B. and Burrell A.* (2015), What is Fair Value? *IPF Short Paper 24. Investment Property Forum: London*. Available at: <https://www.ipf.org.uk/resourceLibrary/what-is-fair-value---april-2015--short-paper.html>
9. *Cardozo, C., Clarke R., Crosby N. and McTigue J.* (2017), Prudent Value Methodologies and Real Estate Lending. *Report for the Property Industry Alliance. London: Investment Property Forum / Commercial Real Estate Finance Council Europe*. Available at: <http://www.ipf.org.uk/asset/D05FA2C5-487D-4C76-997B57F3A3D72BAD/>
10. *Crosby N. and Hughes C.* (2011), The basis of valuations for secured commercial property lending in the UK. *Journal of European Real Estate Research*. Vol 4 Issue 3: pp. 225 – 242.
11. *Crosby N., Hordijk A.* (2021), Approaches for Prudent Property Valuation across Europe. IVSC, TEGoVA, RICS, *Independent Research Steered by Coalition of the Leading Global and European Professional Valuer's Associations and Valuation Standards Setters*. 2021.- 90 p.
12. *Grimman W.* (2017), Mortgage Lending Value. *Verband Deutscher Pfandbriefbanken, e.v., Band 49.*- 296 p.
13. *Kohlscheen, E. and Takáts. E.* (2020). What can commercial property performance reveal about bank valuations? *BIS Working Papers No 900, Bank of International Settlements*. Available at: <https://www.bis.org/publ/work900.pdf>
14. *Nordlund B.* (2008), Valuation Performance Reporting in Property Companies According to IFRS. *Doctoral thesis in Building and Real Estate Economics, Royal Institute of Technology, Stockholm, 2008.*- 136 p.
15. *Samuelson P. A.* (1965) Rational theory of warrant pricing. *Industrial Management Review*, 6:2, p. 13- 39.
16. *Shiryaev A. N., Kabanov Yu. M., Kramkov, D.O. Melnikov A. V.* (1994), Toward the theory of pricing of options of both European and American types. II. Continuous time. *Theory of Probability and its Applications*, **39**:1, 61–102.
17. *RICS Guidance Note* (2018). Bank Lending Valuations and Mortgage Lending Value. Available at: www.rics.org/guidance
18. *Consulting-engineering Group "VERITEX"*. Estimation Module "SMART-VALUATION": Information Base and Real Estate Market Analysis of Ukraine. Available at: <http://veritexgroup.com.ua/en-US/news/smartocinkaandanalytics.aspx>
19. *Davison A. C.* (2003), *Statistical Models*. Cambridge University Press.- 726 p.
20. *Sloane, N. J. A.* (ed.). The On-Line Encyclopedia of Integer Sequences. OEIS Foundation. Available at: <https://www.ams.org/notices/200308/comm-sloane.pdf>

УДК 339.9:330.341.1

THE ROLE OF UNIVERSITIES IN THE DISTRIBUTION OF INTELLECTUAL RESOURCES OF THE GLOBAL ECONOMY

РОЛЬ УНІВЕРСИТЕТІВ У РОЗПОДІЛІ ІНТЕЛЕКТУАЛЬНОГО РЕСУРСУ ГЛОБАЛЬНОЇ ЕКОНОМІКИ

Niameshchuk H.

Doctor of Economic Science, Associate Professor, Professor of the International Economics and Public Management Department of Prydniprovsk State Academy of Civil Engineering and Architecture. E-mail: a.nyameshchuk@gmail.com.

Нямецук Г.В.

Доктор економічних наук, доцент, професор кафедри міжнародної економіки та публічного управління і адміністрування ДВНЗ «Придніпровська державна академія будівництва та архітектури». E-mail: a.nyameshchuk@gmail.com.

Abstract. *An increase in the world number of applicants for international academic mobility as well as updating of the list and dynamics of indicators of the structure of the world countries that receive the largest flows of foreign applicants has been revealed. The outflow of intellectual resources of the universities of the American continents to the institutions of the regions of Asia and Oceania has been showed in temporal dynamics as well as increasing innovation activity and international influence of institutions in these regions. An increase in the number of countries whose universities are competitive in an intellect-intensive global economy and intensification of competition for intellectual resources between universities within regions and individual countries has been identified. The transformation of university development strategies has been demonstrated in order to improve the competitive position in the global struggle for intellectual resources (in particular, based on the format of online education, increasing the supply of financial support and diversifying services provided to students). Emphasis has been placed on increasing and clearly formulating the requirements of business entities of the intellect-intensive global economy to university graduates as potential employees of companies. It has been argued that modern universities are becoming not only a source of knowledge, but also a motive for international intellectual migration as well as the center for the accumulation and integration of intellectual resources of the global economy.*

Keywords: *global economy, intellect-intensive economy, intellectual resource, university.*

Анотація. *Виявлено зростання світової чисельності здобувачів, що вдаються до міжнародної академічної мобільності; оновлення переліку і динаміку показників структури країн світу, що приймають найбільші потоки іноземних здобувачів. В часовій динаміці показано відтік інтелектуального ресурсу університетів американських континентів до інституцій регіонів Азії та Океанії; підвищення інноваційної активності і міжнародної впливовості інституцій цих регіонів. Виявлено зростання кількості країн, чії університети є конкурентоспроможними в інтелектоємній глобальній економіці; загострення конкуренції за інтелектуальний ресурс між університетами всередині регіонів та окремих країн. Продемонстровано трансформацію стратегій розвитку університетів з метою покращення конкурентних позицій в глобальній боротьбі за інтелектуальний ресурс (зокрема на основі формату онлайн-освіти, збільшення пропозиції фінансової підтримки та урізноманітнення послуг, надаваних здобувачам освіти). Акцентовано увагу на підвищенні і чіткому формулюванні вимог бізнес-суб'єктів інтелектоємної глобальної економіки до випускників університетів як потенційних працівників компанії. Стверджується, що сучасні університети стають не лише джерелом знань, але й мотивом міжнародної*

інтелектуальної міграції, центром акумулювання та інтегрування інтелектуального ресурсу глобальної економіки.

Ключові слова: *глобальна економіка, інтелектоємна економіка, інтелектуальний ресурс, університет.*

Problem statement. According to the World Economic Forum experts, the innovation vector has been a trend in the global economy since the late 20th century and it is innovation that will determine 80-90% of the next 40 years of economic growth in both developed and developing countries [*Policy Pathways for the New Economy, 2019*]. Innovative development is increasingly gaining signs of intellectualization: intellectual technologies are a global trend of Industry 4.0 [*World Economic Forum & McKinsey&Company, 2019*]; technological inventions are becoming more intellectually intensive and require more knowledge from various sciences for their implementation (the average number of authors of one patent application in 2014 - 2019 increased by 5.3%) [*Derwent Top 100 Global Innovators, 2020*]; there is an intensification of intellectual migration (almost 2/3 of international migrants go to high-income countries, including for education) [*Global Education Monitoring Report, 2019*]; the number of applicants for higher education is growing (global growth in 2014-2019 was 5.21%, including 8.55% for STEM; global enrollment of young people in higher education - 34%) as well as the labor of science and engineering sector (the number of employees in the United States was 182 thousand in 1950, 5.4 million - in 2009) [*Higher Education Statistics Agency, 2020; A World on the Move, 2017; National Science Board, 2013: 3/5; National Science Board, 2018: 3/6*]. These facts objectively indicate the urgency of the problem of formation, accumulation and distribution of intellectual resources of the global economy in accordance with one of its main sources - higher education institutions or universities.

The purpose of the article. The article aims to determine the role of universities in modern processes of global distribution of intellectual resources based on the analysis of international academic rankings, trends in international academic mobility and initiatives to provide financial support to foreign applicants.

Literature review. O. Adedeji, O. Campbell note that as knowledge becomes important in modern global economy, countries need higher standards of education for their youth, which must be provided by national higher education institutions, taking into account the requirements of international competitiveness [*Adedeji and Campbell, 2013*]. The model of development of modern universities is becoming innovatively active [*Ponomarenko, Rayevnyeva, Yermachenko, 2021*].

Proclaiming the availability of higher education as a sector revolution in the 21st century, P. Altbach identifies two main trends in its development: massification or “academic anarchy” and the focus on the global knowledge economy [*Altbach, 2017*]. Worldwide, more than 200 million applicants study at 22,000 universities and even more other educational institutions. The tendency to complicate processes in the global knowledge economy determines the central role of university research, the participation of universities in international research and development projects. Academic institutions are becoming key points of global communication. According to P. Altbach, there is a differentiation of education systems - the functions and roles of higher education, institutions, systems and organizational structures designed to manage and coordinate the development of the sector are diversifying across countries. The action of Industry 4.0 can be considered as the most obvious factor in the transformation of the role of universities [*Higher Education in the Era, 2018*].

Researchers Kr. Wu and Mt. Wu found that between 1996 and 2019, China, India, Australia, Brazil and South Korea were ahead of developed countries such as the United States, Germany, Canada, and the United Kingdom (UK) in terms of human capital growth [*Wu and Wu, 2022*]. Scientists attribute the significant increase in human capital in China to the positive impact of knowledge growth (due to the number of researchers), increasing the quality of education (number of university graduates in Science and Physics), improving the health of the country's population (number of employees in the field of medicine and sports).

T. Scott and N. Mxunpiew argue that international students are critical to the success and competitiveness of an institution in the higher education market [Scott and Mxunpiew, 2021]. The inflow of foreign students to the UK from non-EU countries provided in 2018/2019 academic year almost £ 6 billion in tuition income or more than 30% of the income of all higher education courses. Given the obvious financial advantages, international competition for foreign applicants from non-traditional markets is growing, which introduce English-language programs, provide financial and other types of bonuses. As a strategic perspective for the development of educational institutions of UK T. Scott and N. Mxunpiew see the implementation of more aggressive recruitment campaigns in markets with high growth potential: South America (Colombia, Brazil), European non-EU countries (Russian Federation), African countries (Nigeria, Kenya, Côte d'Ivoire) and Southeast Asia (Vietnam, Thailand).

Despite the availability of scientific developments in some areas, in our opinion, a comprehensive approach to the problem of allocation of intellectual resources of the global economy is needed. In this article, the author tries to reconcile the trends of university rankings, international academic mobility and initiatives to provide financial support to foreign applicants.

Results. The activity of universities has been evaluated and analyzed by many global and national institutions. In this way, in our opinion, the international dissemination of the best practices for ensuring the quality of education and research, the effectiveness of commercialization of scientific results and the aggregation of intellectual resources is occurring. Based on these considerations, the top lists of the following rankings have been analyzed: The Academic Ranking of World Universities (ARWU), QS World University Rankings (QS), Times Higher Education "The World University Rankings" (THE) (Table 1).

Table 1

The structure of the top lists of international rankings of universities by nationality in 2006 - 2019, %

Ranking	Years, country			
	2006	2011	2016	2019
	USA			
ARWU top 20	85	85	75	80
THE top100	“_”	53	39	41
QS top100	“_”	31	“_”	30
ARWU top100	54	53	50	45
	United Kingdom			
ARWU top 20	10	15	15	15
THE top100	“_”	14	16	11
QS top100	“_”	19	“_”	18
ARWU top100	11	10	8	8
	Japan			
ARWU top 20	5	0	5	0
THE top100	“_”	2	2	2
QS top100	“_”	6	“_”	5
ARWU top100	6	5	4	3
	China**			
ARWU top 20	0	0	0	0
THE top100	“_”	5	4	6
QS top100	“_”	3	“_”	11
ARWU top100	0	0	2	4

“-” no data, as the TNE rating has been compiled since 2009, and QS provides access to the last 4 annual ranking lists;

* calculated by the author, based on (*Academic Ranking of World Universities 2006, 2006; Academic Ranking of World Universities 2011, 2011; Academic Ranking of World Universities 2019, 2019; The World University Rankings 2010-11, 2012; The World University Rankings 2016, 2017; The World University Rankings 2019, 2020; QS World University Rankings 2019, 2020; Innovative function of higher education, 2012*). ** The “China” category includes the mainland of China, Chinese Hong Kong, Chinese Taiwan, Chinese Macau

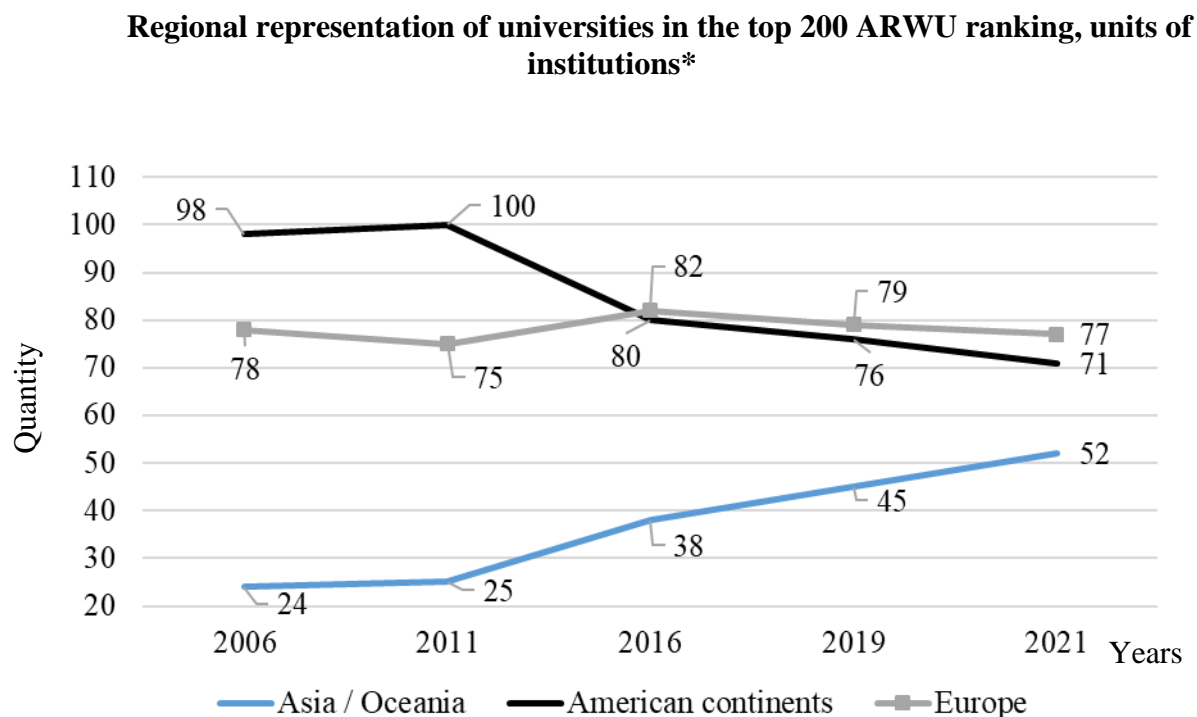
The dynamics of the structure of the analyzed ranking of the top 100 universities by nationality shows a reduction in the share of institutions of the two largest education systems – the United States (US) and the United Kingdom (UK). The US presence in the corresponding THE ranking decreased from 53% in 2011 to 41% in 2019, in ARWU – from 54% in 2006 to 45% in 2019. Similar reduction rates for UK ranged from 14% to 11% in TNE ranking and from 11% to 8% in ARWU. It is interesting to note that in 2006-2011, Chinese universities were not even included in the top 100 ARWU ranking: their representation was limited to three educational institutions in the top 200.

It should be emphasized that the trend of disintegration of China is manifested in the appropriation of intellectual resources of educational institutions by territories and economies. If in 2006 in the ARWU ranking all achievements in the intellectual resources development were combined within one national group “China”, in 2019 the statistics of achievements of Chinese institutions have already been detailed by separate elements of their origin: mainland China, Chinese Hong Kong, Chinese Taiwan, Chinese Macau.

The outflow of intellectual resources from the American region is clearly demonstrated by the representation of educational institutions in the ARWU top 200 ranking (Fig. 1).

As we see from Fig. 1, the outflow of intellectual resources from the American region was accompanied by its inflow to the Asia and Oceania region (increase in 2006 - 2021 was up to 116.7%). The overall list of national representations of educational institutions in the top 200 has changed significantly: if in 2006 the ranking included universities from 35 countries, in 2019 this number increased to 61 countries, that is an increase was 74.3% [*Academic Ranking of World Universities 2006, 2006; Academic Ranking of World Universities 2019, 2019*].

Figure 1



* compiled by the author, based on [Academic Ranking of World Universities 2006, 2006; Academic Ranking of World Universities 2019, 2019; Academic Ranking of World Universities 2021, 2021]

But the flow of intellectual resources to Asia and Oceania was uneven: Japan has reduced its presence in the top lists of ARWU 2019, while there was an increase in presence of Australia, China, South Korea, India and to less extent Singapore (the number of national institutions in the overall ranking increased from 3 to 16). As a result of this trend, the number of institutions from Asia and Oceania in 2019 in the top 501 - 1000 exceeded the number of North American and UK (149 vs. 104), and there were more institutions from China than from America in the ranking (88 vs. 69) [Academic Ranking of World Universities 2006, 2006; Academic Ranking of World Universities 2019, 2019].

A comparison of ARWU rankings for 2006 and 2019 of the analyzed universities by regions shows that the representation of Asia and Oceania has increased in the list (Saudi Arabia, Iran, Malaysia, Thailand, Pakistan, Lebanon, Oman, United Arab Emirates, Vietnam) as well as the African continent (Nigeria, Tunisia), the former Soviet republics (Estonia, Romania, Slovenia, Bulgaria, Slovakia), South America (Colombia, Uruguay), “young” EU member states and candidates for integration (Cyprus, Croatia, Turkey). The largest representation among the new participants in the ranking was considered for Iran (14 institutions), Saudi Arabia and Turkey (12 each), Malaysia (6), Thailand, Pakistan and Mexico (4 each). As of 2019, the educational institutions of these countries had low positions in the total list of the 1000 most influential and productive (only 2 institutions of Saudi Arabia were in the top 200), but this trend cannot be ignored.

The integrative role of national universities in the global distribution of intellectual resources can be evaluated on the basis of international flows of academically mobile people (AMP) (Table 2).

Table 2

Countries – world leaders in AMP inflows in 2000-2020*

Years	2000	2014	2016	2018	2020
Top – 9 (%)	USA (28)	USA (22)	USA (25)	USA (22)	USA (20)
	UK (14)	UK (11)	UK (12)	UK (10)	UK (10)
	Germany (12)	China (8)	China (10)	China (10)	Canada (9)
	France (8)	Germany (7)	France (8)	France (7)	China (9)
	Australia (7)	France (7)	Australia (7)	Australia (7)	Australia (8)
	Japan (4)	Australia (6)	Russia (7)	Canada (7)	France (6)
	Spain (3)	Canada (6)	Germany (6)	Russia (6)	Russia (6)
	Canada (2)	Japan (3)	Canada (6)	Germany (5)	Germany (5)
	Others (22)	Others (31)	Others (19)	Others (25)	Others (27)
Total AMP, million people	1,6	4,5	4,1	5,0	5,6

* compiled by the author, based on (*A World on the Move, 2017; A World on the Move, 2018; Project Atlas, 2015; Project Atlas, 2018; Project Atlas, 2020*)

Analysis of Table 2 shows that in 2000-2020 the number of AMP increased (more than 3 times), the representation of the largest host countries changed (China and the Russian Federation entered the top 9, which in 2020 accounted for a total of 15% of the world incoming flows of AMP), there was a geographical redistribution of the flow of foreign applicants (outflow from the United States and the United Kingdom in favor of Canada, China, Russia and other countries). The largest outflows of AMP in 2016 were formed in Asia and Europe (25% and 23% of the world flow, respectively). Almost half of the global AMP flow to five English-speaking countries: Australia, Canada, New Zealand, the UK and the USA [*Global Education Monitoring Report, 2018*]. About 76% of AMP from Europe who went to study abroad remained in the region. The share of foreigners in the total number of students in Australia, Canada and the UK exceeded 22%, for PhD applicants – 30% [*Global Education Monitoring Report, 2018; Project Atlas, 2020*].

The undisputed leader in terms of the number of involved AMP is the United States: in 2020 they accounted for almost 19.2% of the global flow, and the quality, diversity of educational institutions and programs were positively evaluated by 75% of respondents from 19 countries [*Global Education Monitoring Report, 2018; Project Atlas, 2020*]. The status of English as the most motivating language for international academic mobility is supported by the following facts: the introduction of English-language curricula provides coverage of places in national educational institutions in Japan and South Korea, and their increase in France and Germany has led to an increase in foreign inflows of applicants by 4.3% and 7.1% respectively [*Global Education Monitoring Report, 2018; Project Atlas, 2020*].

The role of universities in the global distribution of intellectual resources can also be determined by intensification of their global talent search, facilitating access to education and expanding the supply of financial support to foreign applicants. According to the statistics of the Scholarship Portal, as of July 23, 2020, the list of registered scholarship programs offered to students at the international level numbered 379 positions [*379 Scholarships to Study in All Locations, 2020*]. Analysis of 178 random units in the list of entities offering scholarship programs allowed to identify the following results (Table 3).

Structure of the database of international scholarship programs by sectoral and regional characteristics of the initiators (as of July 23, 2020) *

By Regions	Share, %	By Operations Sector	Share, %
USA and Canada	39.33	Services for applicants, total	55.06
UK	8.43	including educational	31.46
China and Japan	5.06	related	15.73
India and Africa	7.86	those that precede entry	6.74
Australia	1.12	those accompanying the entrance	1.12
EU, total	16.29	Institutions	5.62
Others	21.91	Business practice	39.33
TOTAL	100.00	TOTAL	100.00

* summarized and compiled by the author, based on (*379 Scholarships to Study in All Locations, 2020*)

The offer of a scholarship program is not always characterized by clarity and transparency of information about its initiator, the subject area of its activities, and this increases uncertainty. The vast majority of scholarship programs are offered by initiators (including universities, educational institutions and other entities) that provide services to applicants (55.06% of the total number of analyzed scholarships): educational (offline education, online education, educational courses), related (study assistance, communication with other applicants, educational crediting, rental housing), those that precede entry (recruitment of foreign applicants, regional university reviews) and accompany the entrance of foreign applicants into the territory of the countries of education (registration of visa documents, insurance).

The second largest segment of the researched scholarship database is the segment of programs from business entities that offer business practice (39.33% of the total number of analyzed scholarships). The analysis of such scholarship programs revealed the predominant specialization of initiators in information and IT services, financial, legal and technological consulting services or production activities, which include the provision of digital services (online stores selling manufactured goods, refining oil and secondary raw materials). Medicine and sports, renewable energy, tourism, shipping, and construction have been identified as other sectors of business operations. A significant number of entities in this segment specialize in online advertising and digital marketing, cybersecurity, reviews of intellectual technologies, and blogging.

The third segment of the suggested scholarship programs is formed by institutional entities (5.62%): associations of companies (including energy – in the electricity, gas, oil sectors), international non-profit organizations (foundations, research organizations), government and diplomatic structures.

The analysis of the regional distribution of scholarship initiators revealed that universities that seek global foreign applicants are mainly based in the United States, the EU, the UK and the Asia-Pacific region (Indonesia, Australia, New Zealand). At the same time, online universities (including the University of Essex, Durham, Brentwood, etc.) are widespread in the UK, specializing exclusively in online education services. American universities provide the greatest opportunities for offline learning for foreign applicants, and are also beginning to implement online education technologies. Characteristically, there are no universities in China and Japan that offer online education services.

Scholarships for educational courses and related educational services are offered mainly by American entities or those whose geographical location is difficult to determine. It is also difficult to determine the regional location of the initiators of scholarship programs in the field of services that precede the entry of foreign applicants into the territory of the countries of education. It can be noted that such initiators most often operate in the markets of the African continent (Nigeria,

Angola, Eritrea), the Middle East (Iraq, Syria), South Asia (India, Pakistan), island states (Philippines, Sri Lanka). It has been found that usually the services accompanying the entrance of foreign applicants into the territory of the countries of education are provided by the same entities that provide services precede the entry, except for services from relevant government agencies (including the production of invitation forms, visa documents, customs and border control, etc.).

There is a significant differentiation of conditions for candidates to participate in programs, the clearest of which are nominated by initiators offering business practices in the sector of information and IT services, financial, legal and technological consulting services or production sector, which include the provision of digital services.

Conclusions. The growth of the intellectual capacity of the global economy again states the main tasks of universities: training qualified specialists, producing innovative technologies and promoting scientific, technical and intellectual development of society. The new conditions transform the activity of the modern university in the direction of strategic planning of its development and integrated perception of the problems of national, regional and global levels. Universities are becoming not only a source of knowledge, but also a motive for international intellectual migration, a center for the accumulation and integration of intellectual resources of the global economy.

The world leading universities are transforming from participants in national innovation systems to participants in global systems, providing countries with competitive advantages in the global intellect-intensive economy. Innovatively active universities determine the global redistribution of the inflow of foreign applicants; show an increase in international activity and influence. These processes identify regions of accelerated intellectual development (including Asia and Asia-Pacific region), which are experiencing a stage of formation, but are now successfully competing with regions of sustainable intellectual development (North America, Europe, Japan).

The intensification of competition in the intellect-intensive economy leads to the transformation of university development strategies: pursuing an aggressive recruitment policy in the markets of developing countries; transition to the model of online universities; expanding the offer of English-language educational programs; initiation of programs of targeted financial support of applicants; expanding the list of services provided to applicants (in particular in the markets of the African continent, the Middle East, South Asia, island states).

The results of the study open up prospects for further research in the direction of evaluating the impact of universities on the intellectual capital of countries.

References

1. Adedeji O.S., Campbell O.A (2013). The Role of Higher Education in Human Capital Development in Nigeria. *SSRN Electronic Journal*, 2013, January. Available at: <https://www.researchgate.net/publication/272302569_The_Role_of_Higher_Education_in_Human_Capital_Development>
2. Altbach P.G. (2017). Chapter 1. The Necessity And Reality Of Differentiated Postsecondary Systems. *Study "Responding To Massification. Differentiation in Postsecondary Education Worldwide"*, Hamburg Transnational University Leaders Council, Boston College, Hamburg, Germany. 14-23, 174 p. Available at: <https://www.hrk.de/fileadmin/redaktion/hrk/02-Dokumente/02-07-Internationales/02-07-01-Internationale-Strategie/Studie_Responding-to-Massification.pdf>
3. Scott T., Mxunpiew N. (2021). Impact of Government Policies and International Students on UK University Economic Stability. *International Education Studies*, 14, 5. Available at: <https://www.researchgate.net/publication/351196878_Impact_of_Government_Policies_and_International_Students_on_UK_University_Economic_Stability>
4. Wu KP, Wu MT (2022). Calculation and Measurement of China's Human Capital after Comparing Human Capital with Technological Innovation. *Journal of Economic Science Research*, 5(1), 3796. Available at:

- <https://www.researchgate.net/publication/356693282_Calculation_and_Measurement_of_China%27s_Human_Capital_after_Comparing_Human_Capital_with_Technological_Innovation>
5. *Conceptual and model support for the development of an innovative-active university*: monograph (2021) / edited by Prof., D.Sc. (Economics) Ponomarenko V., Prof., D.Sc. (Economics), Rayevnyeva O., Prof., Assoc. prof. (Economics) Yermachenko V. Primedia eLaunch, Boston, USA. 377 p. Available at: <<https://isg-konf.com/conceptual-and-model-support-for-the-development-of-an-innovative-active-university/> DOI: 10.46299/978-1-68564-524-3>
 6. *Higher Education in the Era of the Fourth Industrial Revolution* (2018). Edited by N. W. Gleason. Palgrave MacMillan, Singapore, Singapore. 238 p. Available at: <<https://link.springer.com/content/pdf/10.1007%2F978-981-13-0194-0.pdf>>
 7. Academic Ranking of World Universities (2006). *Academic Ranking of World Universities 2006, Statistics*. Available at: <<http://www.shanghairanking.com/ARWU-Statistics-2006.html>>
 8. Academic Ranking of World Universities (2011). *Academic Ranking of World Universities 2011, Statistics*. Available at: <<http://www.shanghairanking.com/ARWU-Statistics-2011.html>>
 9. Academic Ranking of World Universities (2019). *Academic Ranking of World Universities 2019, Statistics*. Available at: <<http://www.shanghairanking.com/ARWU-Statistics-2019.html>>
 10. Academic Ranking of World Universities (2021). *Academic Ranking of World Universities 2021*. Available at: <<http://www.shanghairanking.com/rankings/arwu/2021>>
 11. Clarivate Analytics (2020). *Derwent Top 100 Global Innovators 2020*. Available at: <https://clarivate.com/derwent/wp-content/uploads/sites/3/dlm_uploads/2020/02/Top100_FINAL_DigitalONLY.pdf>
 12. Higher Education Statistics Agency (2020). *HE student enrolments by subject area, principal subject, 4-digit JACS subject, level of study, mode of study, domicile marker and academic year*. Available at: <<https://www.hesa.ac.uk/data-and-analysis/students/table-22>>
 13. Institute of International Education (2017). A World on the Move. *Trends in Global Student Mobility*. Issue 1. Institute of International Education. 17 p. Available at: <<https://www.iie.org/Research-and-Insights/Publications/A-World-on-the-Move>>
 14. Institute of International Education (2018). A World on the Move. *Trends in Global Student Mobility*. Issue 2. Institute of International Education. 18 p. Available at: <<https://www.iie.org/Research-and-Insights/Publications/A-World-on-the-Move>>
 15. Institute of International Education (2015). *Project Atlas 2015: Infographics*. Available at: <<https://www.iie.org/en/Research-and-Insights/Project-Atlas/Explore-Data/Infographics/2015-Project-Atlas-Infographics>>
 16. Institute of International Education (2018). *Project Atlas 2018: Infographics*. Available at: <<https://www.iie.org/Research-and-Insights/Project-Atlas/Explore-Data/Infographics/2018-Project-Atlas-Infographics>>
 17. Institute of International Education (2020). *Project Atlas 2020: Infographics*. Available at: <<https://www.iie.org/en/Research-and-Insights/Project-Atlas/Explore-Data/Infographics/2020-Project-Atlas-Infographics>>
 18. National Science Foundation (2013). National Science Board. *Science & Engineering Indicators 2012*: Chapter 3. Science and Engineering Labor Force. Available at: <<https://wayback.archive-it.org/5902/20170708073310/https://www.nsf.gov/statistics/seind12/pdf/c03.pdf>>
 19. National Science Foundation (2018). National Science Board. *Science & Engineering Indicators 2018*. Available at: <<https://www.nsf.gov/statistics/2018/nsb20181/assets/nsb20181.pdf>>
 20. Quacquarelli Symonds Limited (2020). *QS World University Rankings 2019*. Available at: <<https://www.topuniversities.com/university-rankings/world-university-rankings/2019>>
 21. ScholarshipPortal (2020). *379 Scholarships to Study in All Locations*. Available at: <<https://www.scholarshipportal.com/scholarships/all-locations>>

22. Times Higher Education (2012). *The World University Rankings 2010-11*. Available at: <https://www.timeshighereducation.com/world-university-rankings/2011/world-ranking#!/page/0/length/25/sort_by/rank/sort_order/asc/cols/undefined/>
23. Times Higher Education (2017). *The World University Rankings 2016*. Available at: <https://www.timeshighereducation.com/world-university-rankings/2016/world-ranking#!/page/0/length/25/sort_by/rank/sort_order/asc/cols/stats>
24. Times Higher Education (2020). *The World University Rankings 2019*. Available at: <https://www.timeshighereducation.com/world-university-rankings/2019/world-ranking#!/page/0/length/25/sort_by/rank/sort_order/asc/cols/stats>
25. UNESCO (2018). *Global Education Monitoring Report 2019: Migration, Displacement and Education – Building Bridges, not Walls*. Paris, UNESCO. 416 p. Available at: <<https://unesdoc.unesco.org/ark:/48223/pf0000265866/PDF/265866eng.pdf.multi>>
26. World Economic Forum (2019). *Policy Pathways for the New Economy. Shaping Economic Policy in the Fourth Industrial Revolution*. Geneva: World Economic Forum. Available at: <http://www3.weforum.org/docs/WEF_Policy_Pathways_for_the_New_Economy.pdf>
27. World Economic Forum & McKinsey&Company (2019). *Fourth Industrial Revolution: Beacons of Technology and Innovation in Manufacturing*. Available at: <http://www3.weforum.org/docs/WEF_4IR_Beacons_of_Technology_and_Innovation_in_Manufacturing_report_2019.pdf>
28. Niameshchuk G.V. (2012) Innovacijna funkcija vyshhoi osvity v suchasnij systemi gospodarjuvannja [Innovative function of higher education in the modern management system]. *Prometej. Regionalnyj zbirnyk naukovykh prac z ekonomiky*, 3 (39), pp. 67 – 72.

ЗМІСТ

ПОЛІТИЧНІ ПРОБЛЕМИ МІЖНАРОДНИХ ВІДНОСИН

Shynkarenko T.I.

CULTURAL DIPLOMACY AS A KEY COMPONENT OF FOREIGN POLICY OF STATES4

Polishchuk K. V., Olishevska V. D.

SPORT AS A MEETING FIELD OF SOCIO-POLITICAL DEMANDS OF THE INTERNATIONAL COMMUNITY.....14

СУЧАСНА СИСТЕМА МІЖНАРОДНОГО ПРАВА

Sviatun O.

IMPLEMENTATION OF EU STANDARDS ON PARENTAL LEAVE IN EU MEMBER STATES AND UKRAINE.....23

Mupendana Pierre Claver

NECESSITY AND DIFFICULTIES TO ESTABLISH A REPRESSIVE SYSTEM FOR INTERNATIONAL CRIMES COMMITTED IN THE DRC.....31

ОСОБЛИВОСТІ РОЗВИТКУ

СВІТОВОГО ГОСПОДАРСТВА ТА МЕН

Yakubovsky Valery V., Kukush Alexander G., Yakovlev Mykyta S.

STOCHASTIC ANALYTICAL APPROACH TO THE TIME FACTOR CONSIDERATION IN ASSETS VALUATION.....47

Niameshchuk H.

THE ROLE OF UNIVERSITIES IN THE DISTRIBUTION OF INTELLECTUAL RESOURCE OF THE GLOBAL ECONOMY.....57

**АКТУАЛЬНІ ПРОБЛЕМИ
МІЖНАРОДНИХ ВІДНОСИН**

Збірник наукових праць

ВИПУСК 150

Заснований в 1996 році.
Established in 1996

Засновник : Інститут міжнародних відносин
Київського національного університету імені Тараса Шевченка.
Founder: Educational and Scientific Institute of International Relations, Taras Shevchenko National University of Kyiv

Свідоцтво про державну реєстрацію: К1 №292 від 05.11.1998 р.
Certificate of state registration as a scientific journal: K1 №292 від 05.11.1998 р.

Перереєстрація у 2020 році.
Засновник: Київський національний університет імені Тараса Шевченка.
Certificate for state registration prolonged in 2020.

Свідоцтво про державну реєстрацію: серія КВ №24308-14148ПР від 13.02.2020 р.

Науковий редактор: **Дорошко М. С.**, доктор історичних наук, професор.
Scientific editor: **Mykola S. Doroshko**, Dr. of Sc., professor

Рекомендовано до друку Вченою радою Навчально-наукового інституту міжнародних відносин Київського національного університету імені Тараса Шевченка.
Протокол № 10 від 22 березня 2022 року.
Approved for print by the Scientific Council of Educational and Scientific Institute of International Relations, Taras Shevchenko National University of Kyiv
Protocol № 10 (22 of March, 2022)

Підписано до друку 24.03.2022 року.
Наклад 100 примірників

Навчально-науковий інститут міжнародних відносин
Київського національного університету імені Тараса Шевченка
Тел. 044-481-44-68
Сайт: <http://apir.iir.edu.ua/index.php/apmv/>