

# Baltic Journal of Economic Studies

*Vol. 8 No. 3 (2022)*



**ISMA**  
ANNO 1994



Publishing House  
of Polonia University  
"Educator"

**Riga 2022**

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**Baltic Journal of Economic Studies**, Volume 8 Number 3. Riga, Latvia : “Baltija Publishing”, 2022, 240 pages.

**The Baltic Journal of Economic Studies** is an interdisciplinary scientific journal in the field of economics, business management, national economy, structural and social policies, innovation perspectives and institutional capability.

Published five times per year.

Latvia registered mass information mediums (MIM). Registration No. 000740259

### Indexed in the following international databases:

Index Copernicus; Directory of Open Access Journals (DOAJ); (ESCI) by Web of Science; Research Papers in Economics (RePEc); Google Scholar; WorldCat; Crossref; Publons; BASE; POL-index (PBN); Dimensions; SciLit.

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Publishing House of Polonia University “Educator” and ISMA University of Applied Sciences are the co-publishers of this periodical.

Printed and bound in Riga by LLC Publishing House “Baltija Publishing”.

Journal is available: [www.baltijapublishing.lv/index.php/issue](http://www.baltijapublishing.lv/index.php/issue)

DOI: <https://doi.org/10.30525/2256-0742>

ISSN 2256-0742 (PRINT)  
ISSN 2256-0963 (ONLINE)

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## CONTENTS

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### **Andrzej Pawlik**

Michał Kalecki's scientific legacy as a model for understanding contemporary crises 1

### **Lachezar Borisov**

Consumer confidence and real economic growth in the Eurozone 7

### **Nana Bakayanova, Oleg Tsiselskyi**

The role of economic courts in the economic development of Ukraine 14

### **Liubov Bila-Tiunova, Natalia Panova, Yevheniia Frolova**

Encouragement as a method of managing social relations:  
applied significance in public service 20

### **Kseniia Bondarevska, Olha Doronina**

Strategizing social security in the labor market  
in the context of transformation of key threats 27

### **Olena Busol, Oleksandr Kostenko, Bogdan Romanyk**

The "crisis-type" phenomenon of corruption in Ukraine 36

### **Serhii Vitvitskyi, Anton Syzonenko, Tetiana Titochka**

Peculiarities of corruption risk management in economic activity 42

### **Valentyna Horoshko, Yehor Nazymko, Yurii Pavliutin**

Criminal procedure law of Ukraine in the context of European integration:  
problematic economic and legal issues, ways of reforming 48

### **Pavlo Dziuba, Darya Glukhova, Kyryl Shtogrin**

Risk, return and international portfolio diversification: k-means clustering data 53

### **Volodymyr Dulger, Serhii Baranov, Ivan Khozlu**

The institute of citizen appeals as an active mechanism  
for the protection of socio-economic human rights 65

### **Ihor Zavalniuk**

Realization of the constitutional right to a fair trial  
in the context of the pandemic-economic crisis 72

### **Olha Zinchenko, Irina Privarnikova, Alla Samoilenko**

Adaptive strategic management in a digital business environment 78

### **Olga Ivanchenko**

Disciplinary perspective of the theoretical  
and legal profile of the legitimacy of law 86

### **Svitlana Koshova, Igor Britchenko, Maksym Bezpartochnyi**

Investment in the space industry: a comparative analysis of Ukraine and the EU 92

<b>Ielyzaveta Lvova, Kateryna Kozmuliak, Liudmyla Strutynska-Struk</b> Reducing climate impacts on water resources as the legal and economic basis for environmental security in the EU candidate countries: the case of Ukraine	101
<b>Viktor Makovii, Oksana Kuznichenko, Olga Budyachenko</b> Status and prospects of the execution of judgments of the European Court of Human Rights in Ukraine	115
<b>Liliia Matvieieva, Serhii Vitvickii, Maksym Korniienko</b> Hate crimes: international, regional, economic, and national aspects	125
<b>Iryna Myloserdna, Alina Prokhorenko, Kateryna Savon</b> Selected issues of implementing measures to prevent corruption during martial law	134
<b>Anatolii Nikitin, Oleksandr Tarasenko, Oleksandr Dubenko</b> Legal and economic foundations of the national security of Ukraine: state and prospects	143
<b>Andrii Polishchuk, Tetiana Kotenko, Larysa Chepurda</b> Methodological approach to assessing the level of development of the economic space of the regions	154
<b>Nataliia Poliukhovych, Larysa Raicheva, Andrii Ivanov</b> Mathematical modeling of risk assessment of enterprise management	166
<b>Yurii Safonov, Svitlana Gutkevych, Lina Shenderivska</b> Peculiarities of management of enterprises in the printing industry	174
<b>Denys Svyrydenko, Marja Nesterova, Maryna Dielini</b> Changes in social cohesion in the university community in the context of crisis phenomena in society	185
<b>Antonina Slavytska, Nataliia Bilak, Iryna Kozii</b> Civil society institutions: differentiation of profile characteristics	197
<b>Liliia Khorishko, Tetyana Vasyl'chuk</b> Mechanisms for ensuring Estonia's permanent development: the environmental aspect	205
<b>Alla Cherep, Valentina Voronkova, Olena Androsova</b> Transformational changes in organizational management and human resources in the digital age	210
<b>Denys Yakovlev, Liudmyla Bogush, Olha Diachenko</b> The voice of the middle class and economic democracy in Ukraine	220
<b>Liliya Yakovleva, Oleg Dubinskiy, Yaroslav Kotenko</b> Legitimacy on the frontline. Public policy in Ukraine between public good and private interests	228

## STATUS AND PROSPECTS OF THE EXECUTION OF JUDGMENTS OF THE EUROPEAN COURT OF HUMAN RIGHTS IN UKRAINE

Viktor Makovii<sup>1</sup>, Oksana Kuznichenko<sup>2</sup>, Olga Budyachenko<sup>3</sup>

**Abstract.** *The subject of research* are conceptual, theoretical, methodological and applied bases of legal and economic nature concerning the execution of judgments of the European Court of Human Rights in Ukraine. *Methodology.* General scientific and special legal methods were used in the process of research. Quantitative and qualitative parameters of organizational, legal and economic measures on execution of judgments, including judgments of the European Court of Human Rights in Ukraine were determined by means of the analysis. The synthesis provided the formation of common features of negative and positive factors that hinder and promote, respectively, the execution of judgments. The comparative legal method allowed to identify characteristic common and distinctive features in the execution of judgments of the European Court of Human Rights in Ukraine at different times (2016 and 2021), taking into account legal and economic prerequisites. The formal-legal method created prerequisites for the formulation of conclusions regarding the effectiveness of individual and general measures taken to implement judgments. *The purpose of the article* is to establish the status and outline the prospects for the implementation of the decisions of the European Court of Human Rights through the study of the legal and economic foundations of the relevant national and international legal regime of this process, as well as the jurisdictional activities of the subjects of control and supervision over its course. *The results of the research* showed that the state of implementation of the decisions of the European Court of Human Rights in Ukraine is directly related to a number of measures of various origins, including economic ones, which are based on strict compliance with the requirements of the ratified Convention on Human Rights and Fundamental Freedoms. *Conclusion.* Legal and economic basis for the implementation of the content of the Strasbourg Court judgments on the territory of Ukraine is covered by international and national legal regime, with priority given to the first. Procedures for execution of the said judicial decision are determined, where two groups are distinguished in the plane of national legal regime: those that are aimed primarily at ensuring a private interest; those that create conditions for satisfaction of a public interest. Characteristic features in the execution of court decisions compared to 2016 and 2021 were revealed: an increase in the number of appeals of Ukrainians for the protection of rights and fundamental freedoms; an increase in the number of satisfied compensation claims; the presence of homogeneous problems contributing to the violation of human rights and interests in Ukraine; a decrease in the level of implementation of compensation solutions, which is associated with certain negative aspects of social life of an economic nature; expansion of the scope of consideration on the merits and related judicial decisions, taking into account the list of rights defined by the Convention for the Protection of Human Rights and Fundamental Freedoms; improvement and implementation of a strategic approach in implementing the content of general measures for the execution of judgments, in particular this international instance; implementation of the legal, economic, cultural and informational framework at the level of educational standards, which will contribute to the implementation of the content of judgments of the European Court of Human Rights. The following directions have been identified as priorities for the near future in terms of legal and economic execution of judgments of the European Court of Human Rights: creation of a systematic mechanism for implementing the content of judgments, including those of the Strasbourg Court;

<sup>1</sup> Odessa State University of Internal Affairs, Ukraine (*corresponding author*)

E-mail: makoviy09@i.ua

ORCID: <https://orcid.org/0000-0002-6847-2309>

<sup>2</sup> Educational and Scientific Maritime Institute of Humanities,

Odessa National Maritime University, Ukraine

E-mail: 200mirel@gmail.com

ORCID: <https://orcid.org/0000-0001-6224-632X>

<sup>3</sup> Odessa State University of Internal Affairs, Ukraine

E-mail: helga\_odessa2008@ukr.net

ORCID: <https://orcid.org/0000-0002-6506-1918>



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maximum differentiation of general measures within the framework of the implementation of the content of such decisions; priority of measures of organizational, legal, economic, informational and educational nature; emphasis in the relevant measures on the issue of balancing public and private interests, but by no means to the detriment of the former.

**Key words:** human rights, enforcement of decisions, European Court of Human Rights, general measures, individual measures, rights and economic measures.

**JEL Classification:** F53, K10, K41

## 1. Introduction

The judicial method of protection of violated, contested and unrecognized rights and interests protected by law is the most qualified form of their protection, both among other jurisdictional forms, and in comparison with nonjurisdictional forms of protection. The provisions of Article 55 and Chapter VIII "The Judiciary" of the Constitution of Ukraine (1996) directly confirm the reasoning expressed, which is commented accordingly in the decision of the Constitutional Court of Ukraine of 25 December 1997 № 9-zp (1997), which emphasizes the prohibition for the court to deny justice to any person, i.e., for the court to resolve his/her case, if this person believes that his/her rights and freedoms have been or are being violated, obstacles to their realization have been or are being created, or other violations of rights and freedoms have occurred.

Given the significance of litigation as a means of resolving any case on the merits, the question of achieving the end result of the relevant process in a fair, impartial, and timely manner is extremely important. However, no less significant is the question of the implementation of the content of the court ruling, which is designed to ensure the balance of interests in society by appeasing the immediate disturbance of the public peace that initiated the relevant process, as well as to perform a preventive and ideological function by encouraging socially useful behavior by members of society.

One of the main legal means of enforcing a court decision in Ukraine is the consolidation of the principle of binding court decisions at the general legal and relevant sectoral level, as well as the creation of a legal and economic procedure for its execution. The above is directly reflected in Article 13 of the Law of Ukraine "On Judicial System and Status of Judges: Law of Ukraine as amended on March 22, 2022 № 1402-VIII", provisions of the Procedural Codes: Clause 7, Part 3, Article 2 of the Civil Procedure Code of Ukraine (Civil Procedure Code of Ukraine as amended on April 6, 2022 № 1618-IV); Clause 5, Part 3, Article 3 of the Code of Administrative Procedure of Ukraine (Administrative Procedure Code of Ukraine as amended on May 24, 2022 № 2747-IV); Clause 14, Part 1, Art. 1 art. 7 of the Criminal Procedure Code of Ukraine (Criminal

Procedure Code of Ukraine with amendments of May 3, 2022 № 4651-VI), as well as in the Law of Ukraine "On Enforcement Proceedings" (On enforcement proceedings: Law of Ukraine with amendments of March 26, 2022 № 1404-VIII) and other normative legal acts.

According to the preamble of the Law of Ukraine "On the Judiciary and the Status of Judges: Law of Ukraine as amended on March 22, 2022, №1402-VIII" and part 4 of Article 55 of the Constitution of Ukraine (1996), the State of Ukraine creates conditions in the sphere of justice, which ensure the realization of the right of everyone to a fair trial, implementation of European standards in this sphere of public life, as well as providing a range of legal protection outside the national legal regime.

The abovementioned creates preconditions for the involvement of the jurisdictional activity of the European Court of Human Rights in the Ukrainian law-making and law-enforcement practice, due to the particular importance of the stage of execution of this court's decisions.

At different times, this issue was the subject of consideration by legal scholars, both of the general theoretical block, and of representatives of various branches of law. In particular, Gennadiy Tsirat (Tsirat, 2000) put forward his own considerations regarding the enforcement of foreign arbitration awards, Olena Yevtushenko (2005) studied the peculiarities of recognition and enforcement of foreign court decisions.

The works of the following researchers are directly related to the implementation of decisions of the European Court of Human Rights, including in Ukraine: Vitaly Zavhorodniy on the influence of the practice of the European Court of Human Rights on legal activity in Ukraine (Zavhorodniy, 2018), Volodymyr Uvarov on the implementation of the above court decisions in criminal proceedings (Uvarov, 2012), Sanja Trgovac, Sidonija Grbavac, Sandra Markovic in the context of the position of the Constitutional Court of the Republic of Croatia regarding the implementation of decisions of the European Court of Human Rights (Trgovac, Grbavac, Markovic, 2018), Victor Muraviov, Nataliia Mushak regarding the consideration of the stage implementation of the decisions of the European Court of Human Rights as one of the main legal



issues regarding the implementation of the Convention on the Protection of Human Rights and Fundamental Freedoms (Muraviov, Mushak, 2021), Roman Shyshka, Oleksandr Shyshka, Nataliia Shyshka, Anatolii Slipchenko, Maxym Tkalych regarding the implementation of the decisions of the European Court on human rights through the improvement of civil legislation and Ukraine. Despite this, the issue of implementation of the decisions of the European Court of Human Rights in Ukraine, both in the context of their legal and economic basis, remains relevant and requires further study.

## **2. Legal principles of enforcement of judgments of the European Court of Human Rights in Ukraine**

After Ukraine signed and ratified the Convention for the Protection of Human Rights and Fundamental Freedoms, the question arose of ensuring its implementation in Ukraine. In accordance with Article 19 of the Convention, the European Court of Human Rights is a body of direct jurisdiction, which ensures compliance with its provisions by the signatories, and within the framework of Article 46 of the Convention is confirmed the obligatory execution of decisions of this court in the territory of each signatory country, including Ukraine (Council of Europe, 1950). At the international level, the Committee of Ministers of the Council of Europe is the body responsible for supervising the execution of judgments of the European Court of Human Rights. The competences of the latter in respect of the above-mentioned powers must be divided into those related to: 1) the interpretation of the content of the judgment directly by the Court; 2) the willful violation by the signatory of the obligation to execute the final judgment; 3) the taking of additional measures determined by the Court to execute the judgment by the signatory in the circumstances provided for in the preceding paragraph; 4) the closing of the case on the initiative of the Court.

Respecting the obligations undertaken by the corresponding activity of the legislative body, Ukraine has established guarantees of implementation of the judicial practice of the European Court of Human Rights in the Law of Ukraine "On the Enforcement of Judgments and Application of Judgments of the European Court of Human Rights" (On the Enforcement of Judgments and Application of the Case-law of the European Court of Human Rights: the Law of Ukraine, as amended on October 16, 2012, № 3477-IV). Chapter 3 "Execution of decisions" of this normative legal act defines the organizational, practical and legal means that constitute the socio-legal mechanism of implementation of the content

of the relevant decision of this international body in the territory of Ukraine. In particular, it defines the powers of the Representative Body, which, in accordance with the provisions of Ukrainian law, is responsible for ensuring the representation of Ukraine in the European Court of Human Rights and coordinating the implementation of its decisions. According to the Decree of the Cabinet of Ministers of Ukraine from April 29, 2004 № 553 "On Organizational Measures to Ensure Representation of Ukraine in Cases at the European Court of Human Rights", such body is the Ministry of Justice of Ukraine (On Organizational Measures to Ensure the Representation of Ukraine in Cases at the European Court of Human Rights: Resolution of the Cabinet of Ministers of Ukraine, as amended on November 3, 2021 № 553). According to the article 5 of the Law of Ukraine "On Enforcement Proceedings" the body responsible for enforcing the mentioned category court decisions is the body of the State Enforcement Service of Ukraine (On Enforcement Proceedings: the Law of Ukraine as amended on March 26, 2022 № 1404-VIII).

The enforcement procedure is carried out on general principles determined by the Law of Ukraine "On Enforcement Proceedings" (On Enforcement Proceedings: the Law of Ukraine as amended on March 26, 2022, № 1404-VIII), as well as taking into account the specifics provided by the Law of Ukraine "On Enforcement Proceedings and the Application of Case-law of the European Court of Human Rights" (On Enforcement Proceedings: the Law of Ukraine as amended on October 16, 2012, № 3477-IV). The latter distinguishes the implementation of the following procedures: 1) payment of compensation to the debt collector under normal conditions; 2) payment of compensation in certain extraordinary circumstances (inability to locate the residence of the creditor – an individual, his death or termination of the creditor – a legal entity); 3) taking additional measures of an individual nature; 4) measures of a general nature.

These procedures can be divided into two groups: 1) those that are aimed primarily at private interests; 2) those that create conditions for the satisfaction of public interests. In terms of social (public interest), general measures are the most significant for the prevention of violations of human rights and fundamental freedoms, the elimination of the problem indicated in the court decision and its root cause, which is directly reproduced in the following forms of activity: 1) changes in the current legislation and practice of its application; 2) changes in administrative practice; 3) Providing training for law enforcement and the judiciary on the Convention and the Court's practice; 4) other measures determined by Ukraine upon agreement with the Committee

of Ministers of the Council of Europe, which, in accordance with the content of the court decision, are aimed at ensuring the elimination of deficiencies of a systemic nature, the cessation of violations of the Convention caused by these deficiencies, and the provision of maximum compensation for the consequences of these violations.

Thus, the execution of judgments of the European Court of Human Rights is a separate and fateful procedural stage for the consequences of the application of the Convention for the Protection of Human Rights and Fundamental Freedoms, as it is designed to monitor the compliance of declaring countries with the obligations assumed under this international legal act, as well as to implement a rapid response to certain deformities of law enforcement procedure in favor of human rights and interests. The legal basis for the implementation of the content of this procedural stage includes both international and national legislation. The relevant role in this activity is assigned to the supervisory bodies of international and national jurisdiction, namely the Committee of Ministers of the Council of Europe and the Ministry of Justice of Ukraine. At the same time, the enforcement procedure itself fully complies with the national legal regime for the execution of judicial decisions, taking into account the features defined by the special rules of international law and the national law adopted in accordance with it.

### **3. State and prospects of implementation of the decisions of the European Court of Human Rights in Ukraine: the legal and economic component**

Obviously, the study of the state of execution of judgments of the European Court of Human Rights can be carried out in terms of a number of criteria, in particular: 1) by sectoral affiliation of disputed relations, within which human rights and freedoms were violated (in civil, criminal, administrative cases); 2) depending on the type of right defined by the provisions of the Convention (right to life, prohibition of torture, right to liberty and security of person, right to a fair trial, etc.); 3) by the body that analyzes the execution of court decisions (the Supreme Court and other higher courts, the Ministry of Justice of Ukraine, the State Executive Service of Ukraine); 4) by the jurisdiction of the subject supervising the implementation of decisions (Ministry of Justice of Ukraine – national body, Cabinet of Ministers of the Council of Europe – international); 5) by the measures taken as a result of the implementation of the relevant decision (general, individual, special); 6) by the direction of implementation of the content of the court decision (law enforcement, law-making, educational sphere).

The state of implementation of decisions of the European Court of Human Rights is directly mediated by statistical data of appeals of Ukrainians to this court and the level of their satisfaction. Thus, according to available information, the number of appeals of Ukrainians to this human rights body for a long period of time is among the leaders among other countries, which is based, in particular, on the study by public organizations of the imperfection of legal protection at the level of national legislation, despair in the domestic judicial system and hope for a fairer judgment in the European Court (Center for Civil Liberties, 2016). At the same time, according to the results of the above study, it was found that as of 2016 the level of non-execution of decisions of the European Court of Human Rights was about 90%, which created the preconditions for taking appropriate measures, primarily the introduction of elements of the case law system, which do not exist in the Ukrainian legal system. This served as a basis for further changes in the procedural codes by introducing elements of case law, which led to the dissemination of the practice of using decisions of the European Court of Human Rights in Ukrainian judicial proceedings.

The above, in particular, contributed to the reduction of the load of the European Court of Human Rights with the appeals of Ukrainian citizens in 2021 (11,350 cases against 18,150 cases in 2016). At the same time, if in 2016, applicants consolidated claims for 1,1713,166.92 UAH compensation in cases reviewed, and it was satisfied within 434,347 euros (3.7%), then in 2021 – from 1,759507,068.14 UAH of the claimed compensation, claims for payment have been satisfied 82283358.68 UAH (4.6%). That is, there is an increase in the amount of compensation claimed, as well as the share of positively resolved cases in this part, which is explained by more effective measures to implement the decisions of this court in Ukraine, primarily through the implementation of general measures of educational, economic, information and legal nature, increasing the general legal culture of the population, which enables applicants to better prepare complaints to the court.

Most of the materials reviewed in 2016 can be conditionally grouped into the following homogeneous cases (Annual report on the results of the activities of the Commissioner for the European Court of Human Rights in 2016):

- 1) failure to execute or excessively long execution of the decisions of national courts;
- 2) the direct excessive duration of civil and criminal proceedings;
- 3) lengthy and ineffective investigations into the circumstances of people's deaths;
- 4) conditions of detention, in particular related to failure to provide adequate medical care, ill-treatment



in places of pre-trial detention and execution of punishments, as well as lack of internal remedy;

5) deficiencies in legislation and judicial practice, which lead to the improper application of special means and precautionary measures to applicants;

6) shortcomings of judicial practice, which lead to the violation of the right to a fair trial, as well as bringing a person to justice twice for the same violation;

7) improper administrative practice of state authorities, in particular law enforcement agencies.

Undoubtedly, the consideration and resolution of these cases has a corresponding specificity, which is reflected in a certain way in the relevant measures constituting the content of the judgment.

The decisions of the European Court of Human Rights during the period in question resulted in the following measures:

1) of an individual nature:

- compensatory payments were made in the total amount of 612294315.54 UAH;
- the right of applicants to apply to the relevant court for review of the decision of the national court on the basis of the decision of the European Court of Human Rights has been clarified;

2) of a general nature:

- prepared drafts of normative legal acts, namely: a) to prevent torture and create an effective mechanism for the protection of convicts; b) to introduce an alternative mechanism for the execution of court decisions; c) to ensure the investigation; d) to improve the mechanism of administrative punishment in the form of administrative detention; e) to appoint a medical examination in connection with the placement of persons in a psychiatric hospital;
- informational and educational activities were carried out, in particular: a) decisions of the European Court of Human Rights are translated into Ukrainian; b) such decisions are published in the sections of official publications; c) explanations are given to ordinary citizens, institutions and organizations regarding the interpretation of provisions of the Convention, implementation of decisions of this international court, the procedure and order of appeal to it upon relevant requests; d) participation of the Commissioner of the European Court of Human Rights under the Ministry of Justice of Ukraine in educational activities to explain the legal basis for the activities of this court, the procedure for appealing to it and execution of judgments; e) holding training and methodological and scientific events of various nature on the problematic issues raised in the mentioned judgments with the participation of representatives of the Ministry of Justice of Ukraine, other state and judicial authorities, international law enforcement organizations; f) Commissioners for cases of the European Court of Human Rights together with representatives of national courts of higher

instances prepared explanations for judicial and law enforcement bodies regarding the content of law-making and law-enforcement violations set forth in decisions of the European Court of Human Rights; g) work has begun on creating a Ukrainian interface of the database of decisions of the European Court of Human Rights.

At the same time, the cases heard by the European Court of Justice in 2021 indicate that the following subject areas of litigation prevail (Annual report on the results of the activities of the Commissioner for the European Court of Human Rights in 2021):

1) excessive length of proceedings in civil, administrative and criminal cases;

2) torture or inhuman or degrading treatment or punishment, as well as cruel treatment of persons in pre-trial detention or penal enforcement facilities, and ineffective investigation of complaints about such treatment, inadequate conditions of detention of these persons;

3) shortcomings in national legislation with regard to the lack of legislative conditions for mitigating life imprisonment;

4) drawbacks in legislation and law enforcement practice in terms of the timing and legal grounds for detention, as well as the creation and application of an effective mechanism for compensation for damage caused by these circumstances;

5) flaws in jurisprudence that result in a violation of the human right to a fair trial;

6) imperfections in law and jurisprudence that result in unlawful interference with the right to peaceful enjoyment of property;

7) deficiencies in legislation and administrative practices that result in unlawful interference with the right to peaceful possession of property;

8) lack of an effective statutory remedy for interference with the right to peaceful possession of property;

9) gaps in legislation and administrative practices that result in interference with the right to freedom of expression;

10) shortcomings of judicial practice, which lead to a violation of a person's right to respect for private and family life;

11) investigation of hate crimes;

12) violations of human rights during the Maidan;

13) freedom of assembly;

14) freedom to alienate agricultural land;

15) lustration.

As a result of the decisions of the European Court of Human Rights, the following measures have been taken:

1) of an individual nature:

- compensatory payments were made in the total amount of 76439400 hryvnias, which is 12.5% of the amount paid from the State Budget of Ukraine for the implementation of decisions in 2016;

– additional measures have been taken to ensure the restoration of the violated rights of the applicants by re-examining their appeals by courts of national jurisdiction, taking into account the content of the judgment rendered by the European Court of Human Rights;

2) of a general nature, distinguished by a more structured and strategic approach to the elimination of shortcomings in the legislation, administrative and judicial practice of Ukraine identified by the European Court of Human Rights:

– the Action Plan was approved to implement the National Strategy to solve the problem of non-enforcement of court decisions, whose debtors are a state body or state enterprise, institution, organization for the period up to 2022, which provides: the formation of a mechanism for a harmonious combination of social guarantees and opportunities for their financing; improvement of legislation in the field of bankruptcy of state enterprises; introduction of effective and efficient judicial control over the enforcement of court judgments; improvement of the procedure for establishing or changing the method or procedure for the enforcement of court judgments; expansion of the powers of bodies and persons involved in the enforcement of court judgments and decisions of other bodies; creation, on the basis of existing registries, of a system for recording judgments rendered against state bodies/enterprises, with the ability to track the amount owed on such judgments; improving automation of enforcement proceedings; updating the existing debt of state enterprises; addressing the problem of existing state debt; improvement of means of legal protection for the purpose of execution of court decisions (Order of the Cabinet of Ministers of Ukraine as amended on March 17, 2021, No. 210-r);

– the Plan of priority actions of the Government for 2021 was adopted, which provides for measures to implement the decisions of the European Court of Human Rights, in particular, regarding the development of a draft law on the creation of adequate human guarantees for access to justice (4048), as well as a project on introducing amendments to the Code of Ukraine on administrative offenses, the Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine regarding ensuring the procedure for the execution of decisions of the European Court of Human Rights (4049), etc. (Order of the Cabinet of Ministers of Ukraine as amended on March 24, 2021, No. 276-r);

– drafts of normative legal acts have been prepared regarding a number of the problems raised above;

– informational and educational activities were carried out both within the framework of the activities of special entities for the execution of court decisions and authorized bodies of state power of general competence.

In particular, within the framework of implementation by the Ministry of Justice of Ukraine of general measures on implementation of decisions of the European Court of Human Rights, in particular, on creation of an effective mechanism of implementation of the content of judgments of national and international instances, the following measures were taken:

– existing moratoriums on the execution of judgments, including the decisions of this court, were analyzed;

– the prerequisites of their rationality in the comparison of private and public interests, taking into account the priority of rights over fundamental human freedoms, as well as the ways to abolish the above-mentioned moratoriums were determined;

– prepared proposals on the expediency of creating an extra-budgetary fund to guarantee the enforcement of court decisions against enterprises subject to a moratorium, the contributions to which would be paid by such enterprises;

– lobbied the international financial organization (European Bank for Reconstruction and Development) for the preparation of the Concept on the abolition of existing moratoria in the execution of decisions and judicial bankruptcy procedures for state enterprises;

– work was carried out to develop a draft law on bringing the bankruptcy procedures of state-owned enterprises into line with European requirements and standards;

– development of drafts of other normative legal acts aimed at improvement of normative regulation of bankruptcy procedures of state enterprises and economic companies, in the authorized capital of which more than 50 percent of shares belongs to the state.

A cursory analysis of all the measures that have been taken to implement the content of the decisions of the European Court of Human Rights shows the priority of those that are directly related to the implementation of their content, in particular through the implementation of certain measures.

Studies of normative novelties, which are proposed within the framework of general measures, testify to their effectiveness in view of the above. Thus, the draft Law of Ukraine "On Amendments to Certain Legislative Acts Regarding the Implementation of Decisions of the European Court of Human Rights" submitted by the Cabinet of Ministers of Ukraine regulates the following issues: humanizing criminal legislation, normalizing the procedure for exercising the right to strike at transport enterprises, as well as regulating issues related to the involvement of subjects authorized to resolve collective labor disputes (conflicts) (Official portal of the Verkhovna Rada of Ukraine (2020). Draft Law on Amendments to Certain Legislative Acts to Implement Judgements of the European Court of Human Rights).

Equally relevant is a somewhat alternative draft Law of Ukraine "On Amendments to the Code of Administrative Offences, the Criminal Code of Ukraine and the Code of Criminal Procedure of Ukraine regarding the implementation of decisions of the European Court of Human Rights", proposed by the Cabinet of Ministers of Ukraine, which outlines the position on eliminating such problematic issues raised in the decisions of this international court in 2016 and 2021, namely:

- the application of administrative punishment in the form of administrative detention and the procedure for its review on appeal, taking into account compliance with the principles: legal certainty (formulation of clear conditions under which deprivation of liberty is carried out); expediency and effectiveness of the review of such a case on appeal, taking into account the timing of the punishment; proportionality of the punishment applied to the pursued purpose of its appointment;
- humanization of certain norms of criminal law in terms of the application of punishment in the form of life imprisonment by replacing it with imprisonment for a fixed term or providing the possibility to apply parole to such persons;
- confirmation of the adversarial model in criminal proceedings for the application of preventive measures in the form of detention;
- implementation of the right to review the materials of criminal proceedings after the court decision has entered into force (Official portal of the Verkhovna Rada of Ukraine (2020). European Court of Human Rights).

In addition to the above, only in 2021, as part of the mentioned Government Priority Action Plan for 2021, other draft laws are proposed to ensure the implementation of the decisions of the European Court of Human Rights, in particular, in the region:

- 1) human rights and access to justice;
- 2) protection of property rights;
- 3) creation of a humanistic system of execution of criminal punishments (Order of the Cabinet of Ministers of Ukraine as amended on March 24, 2021, № 276-p).

In the context of implementation of the content of the decisions of the European Court of Human Rights in the framework of educational activities to implement general measures, it is necessary to note the opinion tracing the formation of the main results of training of specialists in the following areas: 1) public authorities; 2) courts; 3) advocacy; 4) law enforcement agencies; 5) educational institutions and public organizations (Zavhorodnyi, 2017).

Indeed, according to the results of the monitoring of educational programs of Ukrainian educational institutions that train lawyers, it should be concluded that there is a broad introduction of normative

requirements and educational components in their content, which form the culture of jurisdictional activities of the European Court of Human Rights, including the execution of decisions of this court. Thus, within the educational program "Law" of the educational level "master" at the National University of Kyiv-Mohyla Academy the ability to analyze domestic law enforcement, in particular, judicial practice, to evaluate it for compliance with the Constitution and Laws of Ukraine, as well as the Convention on the Protection of Rights is offered and fundamental freedoms and the practice of the European Court of Human Rights as a special competence of its graduates, which is mediated, in particular, by the study of the academic discipline "Application of the European Convention on Human Rights and the practice of the Strasbourg Court in the activity of the defender" (Official portal of the National University of Kyiv-Mohyla Academy, 2022).

A special importance in the implementation of general measures of informational and educational nature should be given to the study of procedures for implementing the achievements of the European Community through the convention mechanism approved in the framework of the decisions of the European Court of Human Rights, an example of which is the work of representatives of Ukrainian law schools regarding: adaptation of mechanisms of municipal government to European standards (Diegtiar et al, 2021), the protection of human rights within the limits of individual criminal proceedings (Golovin et al, 2021), the implementation of private human rights at the border of labor and civil relations (Makovii et al, 2021).

Thus, the state of execution of judgments of the European Court of Human Rights is mediated by a number of measures, which are differentiated according to such criteria as: 1) sectoral affiliation of the disputed relations, within the framework of which violations of human rights and freedoms were identified; 2) the type of right, defined in the provisions of the Convention; 3) the subject analyzing the state of execution of court decisions; 4) the jurisdiction of the subject supervising the execution of decisions; 5) measures taken as a result of the execution of the relevant decision; 6) the direction of implementation of the content of the court decision.

Given the subject matter of this study, more attention was paid to the range of measures that were taken as a result of the execution of the relevant decision, as well as the limits of the legal personality of the authorized body, which provided and controlled the procedure for their implementation.

Also according to the results of the comparison of the measures taken and the consequences of their implementation within the framework of the execution



of decisions of the European Court of Human Rights in 2016 and 2021 the achievements and miscalculations of organizational, economic, educational, informational, legal, etc. nature were highlighted. Among the most positive aspects of the enforcement of the decisions of the said court should be noted the transition from episodic and static measures to systemic and strategic in the development of the entire state apparatus, primarily in the legal, economic and educational-informational directions. Amidst the negative manifestations of the mechanism of implementation of these court decisions are the problems associated with the execution of court decisions, including the above mentioned court in terms of collecting compensation in separate measures, i.e. economic or financial support of the said procedure. The above provided an opportunity to express views on this issue of different socio-economic and legal nature.

#### 4. Conclusions

In conclusion of the study of the status and prospects of execution of judgments of the European Court of Human Rights in Ukraine, the following general considerations should be made.

First, the legal basis for implementing the content of Strasbourg Court judgments is set out under international and national legal regimes, where the priority is given to the former. At the international level, the Committee of Ministers of the Council of Europe, whose competence is agreed in the relevant procedures, is the body responsible for supervising the execution of judgments of the European Court of Human Rights. Within the framework of the Ukrainian legislation the authorized subjects, executing decisions of the European Court of Human Rights, are the Ministry of Justice of Ukraine, mainly for organizational and principle measures and the State Executive Service for direct enforcement.

Second, taking into account the content of national legislation, two groups of executive procedures are distinguished: 1) those that are aimed primarily at securing a private interest; 2) those that create conditions for the satisfaction of a public interest. The most detailed in terms of monitoring the results of implementation of the content of court decisions are the measures of the second group, which distinguishes: 1) changes in the current legislation and practice of its application; 2) changes in administrative practice; 3) providing training for representatives of law enforcement and judicial authorities on the study of the Convention and the Court's practice; 4) other measures determined by Ukraine in coordination with the Committee of Ministers of the Council of Europe.

Third, the procedures for the execution of judgments of the European Court of Human Rights

are differentiated according to the following criteria: the sectoral affiliation of the disputed relations in which violations of human rights and freedoms were found; the type of right defined in the provisions of the Convention; the subject analyzing the state of execution of judgments; the jurisdiction of the subject exercising supervision over the execution of decisions; the measures taken as a result of execution of the relevant decision; the direction of implementation of the contents of the judgment.

Fourth, a comparative monitoring of the state of implementation of the Strasbourg Court judgments in 2016 and 2021 found: 1) an increase in the number of appeals of Ukrainians for protection of rights and fundamental freedoms (by 60%); 2) an increase in the number of satisfied claims for compensation (4.6% versus 3.7% of the total amount of payments, respectively); 3) the presence of homogeneous problems contributing to the violation of human rights and interests in Ukraine (deficiencies in law-making and law-enforcement practices in criminal and administrative proceedings regarding the application of the relevant types of punishment, preventive measures and terms of justice, other deficiencies in judicial practices that lead to violations of the right to a fair trial, non-enforcement of judicial and administrative institutions); 4) decrease in the rate of execution of compensation claims (almost 8 times) due to the lack of an appropriate financial mechanism for such a procedure; 5) expansion of the scope of consideration on the merits and relevant court decisions, taking into account the list of rights defined by the Convention for the Protection of Human Rights and Fundamental Freedoms; 6) improvement and implementation of a strategic approach in the implementation of the content of general measures for the execution of judgments, in particular of this international instance; 7) implementation of legal, economic, cultural and informational principles at the level of educational standards, which will contribute to the implementation of the content of judgments of the European Court of Human Rights.

Fifth, considering the analysis of the above mentioned, it is necessary to pay attention to perspective measures for implementation of judgments of the European Court of Human Rights in Ukraine, where the following directions should be of priority: 1) creation of a systematic mechanism of implementation of the contents of court decisions, including the Strasbourg Court decisions; 2) maximum differentiation of general measures within the framework of the implementation of the content of such decisions; 3) priority of measures of organizational, legal, economic, informational and educational nature; 4) emphasis in the relevant measures on the issue of balancing public and

private interests, but by no means to the detriment of the former.

Undoubtedly, the above should serve for further scientific research in the issue of

studying the problems of execution of judgments of the European Court of Human Rights in Ukraine, including those of legal and economic nature.

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Received on: 3th of August, 2022

Accepted on: 14th of September, 2022

Published on: 30th of September, 2022