NAVIGATING CHANGE: THE EVOLUTION OF UKRAINIAN PRIVATE LAW FROM HISTORICAL ROOTS TO CONTEMPORARY CHALLENGES

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Annotation. The article examined the evolution of Ukrainian private law, which reflects the development of the country's statehood and its historical heritage, deeply rooted in European traditions. In the context of recent geopolitical events, such as the invasion of Russia and Ukraine's acquisition of the status of a candidate for membership in the European Union, the article emphasized the urgent need to overcome the post-Soviet legacy and the need for qualitative adaptation to European Union standards.

The legal trajectory of Ukraine is considered, taking into account internal reforms, external influences and the role of private law in harmonization with democratic principles. The importance of a comprehensive approach to the development of private law in accordance with modern challenges is emphasized.

Key words: the rule of law, institutional changes, development strategy, traditions, historical experience.

1. Introduction.

Private law is a complex and evolutionary construct that is determined by a number of historical and sociocultural factors, is key in the development of the legal system and an identifier of the development of the legal space. Looking from the past to the present, it becomes clear that the development of this legal sphere is not limited to the transformation of the legal system. This is a reflection of the development of statehood and the deep interweaving of traditions with national identity, where natural law, which is the basis of civilizational coexistence is key.

It is important to note that the acquisition of Ukrainian private law goes back to the deep past and is inextricably linked with the multifaceted processes that took place and are taking place in Europe. Accordingly, the formation of the main principles and structures of Ukrainian private law took place against the background of the influence of various stages of history, including the periods of empires and the Soviet system. It should be noted that the formation of legislation based on the traditions of the Romano-Germanic legal system and the preservation of certain forms of private relations in the provisions of the Civil Code of the Ukrainian SRS during the period of the functioning of the communist regime served the Ukrainian society as a bridge to not losing the acquired pre-communist private law experience in European traditions. During the communist period, although there were attempts to transform and adapt the Ukrainian legal space, many elements of the traditional legal system remained under the influence of European norms.

The institutional changes that Ukrainian society began to build after the declaration of Ukraine's independence in 1991 were formed on the basis of the Soviet administrative-command model. The Soviet system did not recognize the traditional division of law into public and private, characteristic of Western legal systems, and was aimed at achieving collective goals and ensuring social equality through state control over key aspects of society. Accordingly, the development of private law in

Ukraine began with the development of civil law, which today primarily represents the sphere of private law of Ukraine.

At the same time, R.A. Maidanyk (2016, p. 29-30) draws attention to the fact that the current model of Ukrainian law (starting from 1991 and up to today) remains to a large extent on the methodology of Soviet law with a combination of basic branches (Civil, Administrative, Criminal, Constitutional) and complex branches (Economic, Land, Labor) and in acts of complex branches of law, norms of private and public law are mixed.

This indicates that the transitional period from the Soviet model of law to the democratic one is ongoing. The private law of Ukraine crystallizes in the context of the transformation of social relations, and the importance of these changes grows against the background of modern events.

The urgency of decisively overcoming the post-Soviet legacy is only increasing against the background of Russia's invasion of Ukraine on February 24, 2022 and the declaration of martial law in Ukraine, and Ukraine's June 2022 status as a candidate for membership in the European Union. These events are consolidating for Ukrainian society an impetus for developing an effective strategy for development and a future disconnected with its Soviet past.

Moreover, there are pragmatic reasons to promote such changes. Obtaining the status of a candidate in the European Union necessitates the qualitative adaptation of the legal system of Ukraine to the standards of the law of the European Union, and the introduced martial law in Ukraine is a key factor in this process. Martial law is not only a challenge, but also an opportunity for the further development of a democratic legal environment and the search for optimal solutions for the implementation of effective changes. An important guide in this is the preservation of the principles of the rule of law, awareness of the value of the legal norm as an effective tool for the development of a human-oriented society and, undoubtedly, the need for society to perceive the law as a rule of conduct that should be followed.

In the context of the interaction of internal and external factors in the development of private law, the study of the evolution of private law takes on a new contour. The main emphasis is on finding stable values and understanding the

vestiges of the Soviet period in order to develop future changes, in particular with the development of the latest technologies and modern challenges.

Yet, there is no universality in the development of law. Rather there is a need for a step-by-step and strategically balanced search for effective legal constructions. Each country has its own unique features that influence the formation and evolution of its legal system. In confirmation of the expressed opinion, we cite the reasoning of Mariana Mota Prado and Michael J. Trebilcock (2014, p. 39-44), who note that the inter – relationships between public sector and private sector institutions vary greatly across even developed countries and more so across developing countries.

At the same time, it is important to consider that «critical juntures" may provide opportunities for more radical institutional change, but also present risk of denial. To mitigate these risks, the reform process must broaden the pool of policy ideas.

Therefore, the importance of a comprehensive approach to the development of private law is obvious. Although this article primarily considers domestic factors, it must be recognized that only such an approach will contribute to the development of private law. The reform process should be phased and strategically balanced in order to develop effective legal structures that correspond to democratic traditions. Such an approach will help create a legal environment that takes into account both internal and external influences, and will contribute to the development of private law according to the trends of the modern world.

2. Literature Review.

The issue of the development of private law is widely discussed in national and international academic circles.

The conducted studies highlight various issues, including the modernization and harmonization of private law in accordance with modern standards. They also emphasize the importance of studying the evolution and overcoming of past problems, pointing to the role of the rule of law in the development of a high-quality legal system. Special attention is paid to the interaction of private and public law in the process of evolution, as well as consideration of ways to preserve legal identity.

First of all, scientists emphasize the role of legal traditions and note the importance of civil legislation as the basis of private law of Ukraine.

Nataliia S. Kuznietsova, Oleksandr V. Petryshyn, and Denys S. Pylypenko (2021, p. 15) emphasis that the construction of democratic foundations and the restoration of private rights in Ukraine are also closely connected with the adoption in 2004 of the Civil Code of Ukraine, which "can undoubtedly be defined as the Constitution of civil society".

O.S. Yavorska (2013, p. 131) believes that "the qualitative stage of development of human society, expressed in the aspiration for democratization in all its spheres, requires a qualitatively higher level of legal understanding. The author supports these considerations with the decision of the Constitutional Court of Ukraine dated November 2, 2004, where it is noted that law is not limited solely to legislation as one of its forms, but includes other social regulators, in particular, norms of morality, traditions, customs, etc., legitimized by society and determined by the historically achieved cultural level of the community".

This perspective underscores the intricate interplay between legal systems and societal values, inviting further exploration into the multifaceted nature of law and its intersection with cultural and moral dimensions.

In continuation of the opinion, Yu.M. Ruzhuk (2017, p. 26) notes that "the idea of natural law runs continuously throughout the entire history of intellectual development in Western Europe".

L.L. Bogachova, D.R. Kovalchuk, and A.Yu. Kundiy (2021, p. 25) emphasize that "after a prolonged Soviet period of ignoring and suppressing legal customs, Ukrainian law is on the path of regenerating this democratic source of law, which holds significant historical importance for the Ukrainian people and is capable of organically complementing and thereby qualitatively renewing the modern legal system of Ukraine... legal custom is present to a greater or lesser extent in all major branches of Ukrainian law... the significance of custom is more substantial in the fields of private law, aligning with the traditions and modern trends in the development of legal systems in continental Europe".

Vitalina Ozel (2016, p. 204) concludes that the norms of customary law always remain formal... they can be perceived as the most vivid expression of the legal culture of a certain level of social development, and unlike legislation, the norms of customary law can be considered a very dynamic reflection of all transformations in socio-legal life".

These discussions stimulate further research into the heritage of Ukrainian law, which may turn out to be a key component in determining the basis of private law, making a significant contribution to the modernization of the legal landscape of Ukraine.

The scientific discourse on the connection between the development of law and the state also attracts attention. Researchers believe that effective interaction between legal institutions and public administration is key to creating a stable and progressive legal environment.

So, Mykola I. Kozyubra (2015, p. 16–18) highlights that, unlike the Central European countries that swiftly reformed their theoretical jurisprudence after the collapse of the socialist system, Ukraine still grapples with the persistent belief in the artificial separation of legal theory from the theory of the state. Kozyubra emphasizes that "the primary genesis of law originates not in the state but in real life, in the natural, inalienable rights of the individual, which are the foundation, the primary source of law; law emerges not simultaneously with the state but precedes it".

Exploring the development of civil society and modern private law in Ukraine,

N. Kuznetsova (2013, p. 52) notes that "rethinking the essence and role of the state and law, the correlation of these crucial institutions in contemporary society, awareness of the necessity for

qualitative changes in the society itself, allowing it to be characterized as civil, make the investigation of the phenomenon of civil law relevant in this sense".

The raised issues of private law reforms and their orientations are extremely relevant in scientific research.

Nataliia S. Kuznietsova (2016, p. 53) notes that "the orientation towards the European development vector requires Ukrainian civil law scholars not only to comprehend new approaches to defining the issues of scientific research but also to shape a new civilistic mindset, understanding the categories and constructions of contemporary European private law".

Comparing individual provisions of Ukrainian private law with European harmonization initiatives, Th. Hoffmann (2016, p. 196) notes "the reforms of Ukrainian private law of 2004 raised hope that legal security and efficiency of the Ukrainian system of private law would be enhanced. The analysis of ten "standard" private law situations under Ukrainian law shows, that there is on first sight a quite close similarity in the general dogmatic approach, structure and dimensions of the Ukrainian Civil Code. This does not surprise, as even the Soviet Civil Code was structurally derived from continental European law principles, of which-based on nineteenth-century law-the main model was German law. A second sight, nevertheless, reveals that numerous elements of the "common core" of European private law are not fully or not implemented at all".

M. Prado and M. Trebilcock (2009, p. 344) illustrate that «an improvement in the rule of law by one standard deviation from the current levels in Ukraine to those 'middling' levels prevailing in South Africa would lead to a fourfold increase in per capita income in the long run. A larger increase in the quality of the rule of law by two standard deviations in Ukraine (or in other countries in the former Soviet Union), to the much higher level in Slovenia or Spain, would further multiply this income per capita increase».

Frank K. Upham (2018, p.19) emphasizes that the trajectory of a society- whether it grows, stagnates, or declines - is intricately tied to property rights and market exchange.

At the same time, Lisa M. Austin`s (2021, p. XXVI) draws attention to the connection between private law and the rule of law, and focuses on how the problems of private law and public law can be intertwined".

Thomas W. Merrill (2021, p. 591) notes that private law allows individuals to shape their affairs, exercise initiative, and plan for the future. But to perform this critical role, private law needs to be highly stable and predictable. This means private law must be rooted in history, evolve slowly, and respond to existing social norm. But the content of private law, if it is to perform its critical function, must be highly conventional. It must be developed from the bottom up, reflecting existing practice among social actors, rather than the top down.

In general, the discussed aspects are of interest in further research of the heritage of Ukrainian law, which may turn out to be a key component in the defined foundations of private law and contribute to a significant renewal of the legal landscape of Ukraine in modern conditions. At the same time, the revival of legal customs can serve as an organic renewal of modern private law.

Construction of the legal foundations of the institute of private law in post-Soviet Ukraine.

Ukraine is a post-Soviet state that began its journey as an independent country in 1991 on the basis of the Constitution of the Ukrainian SSR (1973), and since 1996 - the Constitution of Ukraine (1996). In 1996, Ukraine was defined as a sovereign, independent, democratic, social state with the rule of law. The principles of the Ukrainian Soviet Socialist Republic as a socialist state of workers and peasants have been rejected and a new form of state organization has been established - a state with the rule of law.

The general rules that characterized the transition provided for the restructuring of Ukraine's economy to a market economy and the formation and development of private law as a means of economic power and state management. Despite the Constitutional break with the soviet past, the institutional changes that Ukrainian society began to build for the functioning of private law

were formed on the basis of the post-Soviet administrative-command model. There was a need to develop effective legal instruments to move away from the model of technical vertical management to regulation according to the rules of the market economy.

The creation of a new space for legal reform was impossible without finding a reform plan to eliminate the dysfunctional existing old system of management. The first steps taken were related to the approval of a number of programs and legislative acts for their implementation. In 1991, the Resolution of the Verkhovna Rada of Ukraine "On the Main Directions of Ukraine's Economic Policy in the Conditions of Independence" (1991) and the Program of Emergency Measures to Stabilize the Economy of Ukraine and get out of the crisis state (1991). The formation of mechanisms for the free purchase and sale of enterprises and objects of market infrastructure with the right to attract foreign legal entities and individuals to participate was foreseen.

In order to implement the approved decisions, the laws of Ukraine "On Property" (1991), "On Enterprises in Ukraine" (1991) and "On Entrepreneurship" (1991) were adopted in the same year, which later became invalid with the adoption of the Economic Code of Ukraine (2003), and on 01.01.2004 of the Civil Code of Ukraine (2003), which replaced the Civil Code of the Ukraine SSR (1963).

There is no doubt that the difficulties in the formation of a law-oriented system are primarily due to the long-term functioning of the Soviet system of governance. Despite the collapse of the Soviet Union, a return to democratic values did not occurred automatically. As A. Berezovenko (2021, p. 99) rightly observes, "in the period from 1991 to February 2014, the political discourse of Ukraine was defined as the further development of the traditions of Soviet Ukraine" and only "2014 became the starting point for the formation of a new mode of perception".

Note that the end of 2013 - the beginning of 2014 is associated with protest movements in Ukraine (Revolution of Dignity) against the government's withdrawal from the European integration course.

However, the process of "decommunization of public space" (Kozyrska, 2016,

p. 130) continues, which is confirmed by a number of adopted legal acts.

Thus, on April 9, 2015, the laws of Ukraine "On the condemnation of communist and national socialist (nazi) totalitarian regimes in Ukraine and the prohibition of propaganda of their symbols" (2015) and "On the purification of power" (2014) were adopted, on April 21, 2022, the Law of Ukraine was adopted "On Denationalization of Ukrainian Legislation" (2022), August 24, 2023 Law of Ukraine "On Withdrawal from the Agreement on Cooperation of CIS Member States in the Creation, Use and Development of an Interstate Network of Information and Marketing Centers for the Promotion of Goods and Services on National Markets" (2023), on August 23, 2023, the Law of Ukraine "On withdrawal from certain international treaties concluded within the framework of the Commonwealth of Independent States" (2023), etc.

Thus, building the legal foundations of the institution of private law in post- Soviet Ukraine is a complex and multifaceted process, prompted by the need to comprehend and address historical issues linked to the totalitarian past. The enacted laws are a significant step towards creating conditions for the establishment of a democratic model in Ukraine and constitute a pivotal component of the strategy for developing a law-oriented system.

The approved legislative changes in Ukraine reflect an important step forward, as they not only establish new legal norms, but also create an essential context for the effective functioning of private law. These changes are a continuation of previous legal reforms aimed at implementing the values and principles of democracy, such as transparency, fairness, protection of rights and definition of responsibility.

At the same time, it should be noted that the process of forming legal frameworks is dynamic and requires constant improvement and adaptation. This emphasizes the need to develop a flexible model of the legal system that can effectively respond to changes in social conditions and respond to modern challenges. Further discussion emphasizes the importance of taking into account the historical context of the formation of private law of Ukraine. Observing the evolution of the legal

foundations of private law reveals subtleties and relationships between legal norms and social changes, which is the key to understanding the essence of Ukrainian private law and formulating strategies for its future development.

Establishment of Ukrainian Private Law (until 1939).

According to historical records, at different stages of existence, different regions of Ukraine-Russia were part of different empires (Poland, Lithuania, Austria, Russia), but this did not prevent the Ukrainian people from preserving their authenticity. Ukrainian legal statehood, before the establishment of Soviet power in 1919 (the East and Central part of modern Ukraine) and the accession of Western Ukraine to the Ukrainian SSR in 1939, was built on deep Christian traditions, customary and natural law, which regulated horizontal (private) relations and preserved living traces of the people. Customary law developed in synergy with natural law in the dichotomy of tradition - man - social relations and arose through the prism of time and events, as evidenced by historical sources, as a self-expressed system of functioning of the Ukrainian environment, an important factor of which was the expression of civilization in the conditions of national worldview.

For example, V.M.Syrotkin (2018) notes that in 1797, despite the prohibition of customary law during the Austrian Empire, the Galician Law Book was adopted (Galicia - the western part of the territory of modern Ukraine), which included the norms of customary and imperial law. In the Left Bank and Slobid Ukraine norms of customary law were based on the Statutes of Lithuania and were in effect from "1588 until the end of the 1830s, and through a number of relevant notes on local legal peculiarities – until 1917". Continuing the thought, the scientist notes that even in the conditions of "unification of the legislative systems of Austria-Hungary and Russia and liquidation in 1830 - in the 1960s, the remnants of the legal autonomy of certain regions of Ukraine, imperial legislation recognized the effectiveness of customary law in a number of legal relationships". Thus, Ukrainian customary and natural law developed, absorbing more and more new features of the socio-economic development of the environment and its penetration into social relations was really deep.

R.A. Majdanyk (2016, p.12) notes that "during the period of the XVII-XVIII centuries the Ukrainian legal system reflected a high level of legal culture. The structure, changes and institutions of private law testify to the formation of the contemporary system of Ukrainian law in accordance with the Romano-Germanic type of legal systems".

An interesting fact is that, according to historical data, in the 20s and 30s of the XX century a legal commission on customary law operated in Lviv, which collected "more than 7,300 cards of legal terminology and left a significant legacy of scientific research on various issues of the content, forms and place of customary law in the national legal system" (Syrotkin, 2018). This is how the terms and elements that came to us from the historical foundations became known - community, elections, property, courts, contracts of purchase - sale of property, land, livestock, relations for the fulfillment of obligations, relations of punishment, relations between the community and landowners, households, family relations, understanding of women's rights in that era, in particular, a woman's right to own personal property and manage a yard (household), yard ownership of land, custom of inheritance, trade custom, control over the ownership of individual and shared property, arbitrary seizure of land, borders disagreements and others.

Consequently, Ukrainian society over the centuries, even during the unfavorable historical milestones of imperial dependence, managed to build and develop a time-tested regulation of private social relations built on freedom and

respect for private life, formed on the principles of natural and customary law in the traditions of the Romano-Germanic legal system.

The basic principles of European legal culture - respect, public reputation, justice and freedom - also served as the foundation for the formation and development of Ukrainian society at that time and contributed to the formation of Ukrainian legal culture. The acquired historical experience became a key reference point for the further formation and development of Ukrainian society.

However, during the period of revolutionary changes in the beginning of the XX century and the spread of communist ideology, significant transformations took place in the socio-cultural and legal

aspects of the country's life. These processes led to reforms of some traditional values and standards that previously formed the legal landscape of Ukrainian society.

Although the communist regime tried to transform the historical path and legal culture, the acquired experience and roots remained intact at a deep level.

Period of the functioning of the Soviet era (1939-1991).

The laid foundations of private law institutions during the Soviet Union underwent critical changes. First of all, it should be remembered that the concept of private law was not applied in the Soviet period. The legislation was based on the regulation of management and property planned socialist relations (planned management of the economy - economic activity) and separate provisions of civil legislation. The main factor in the economy was planning, where the state determined and controlled the distribution of resources and production processes. In such a context, the concepts of private property and individual rights and responsibilities for property were limited, and the focus was directed to ensuring collective interests and fulfilling planned tasks. Legal relations were oriented towards socialist ideology and collectivity, and the concept of private law was not defined within this system.

As it is known from historical sources, the Constitution of the Ukrainian SSR dated January 30, 1937 announced the formation of the Ukrainian Soviet Socialist Republic - a socialist state of workers and peasants. Later, on November 1, 1939, the

Supreme Soviet of the USSR adopted the Law "On the inclusion of Western Ukraine in the Union of Soviet Socialist Republics with its union with the Ukrainian Soviet Socialist Republic" (News of the Council of Workers' Deputies of the Ukrainian SSR No. 254 of November 4, 1939). On its basis, in November 1939, the Verkhovna Rada of the Ukrainian SSR adopted the Law "On the Admission of Western Ukraine to the Ukrainian Soviet Socialist Republic" (News of the Council of Workers' Deputies of the Ukrainian SSR No. 262 of November 16, 1939).

According to the Constitution of the Ukrainian SSR (1973), the main form of property is declared to be socialist. Socialist property was defined as state property (public good), or cooperative-collective farm property (property of individual collective farms, property of cooperative associations) (Article 5). It was assumed that the land, its subsoil, waters, forests, plants, factories, mines, mines, railway, water and air transport, banks, means of communication, large agricultural enterprises organized by the state (state farms, machine-tractor stations, etc.), as well as communal enterprises and the main housing stock in cities and industrial centers are state property. Despite state property, small private farms of peasants and artisans were allowed, which excluded the exploitation of other people's labor (Article 9) and the right of personal ownership of citizens to their labor income and savings, to a residential building and auxiliary household, to household and household items, on items of personal consumption and comfort, as well as the right to inherit personal property of citizens (Article 10). As we can see, the terms property and private were applied exclusively to the property that was in the direct use of a person and was associated with his life activity (small economy).

Socio-political and socio-economic processes that took place after the proclamation of the Ukrainian SSR significantly affected the vocabulary, which could not but affect legal institutions. Under the influence of the communist regime, ideological and evaluative components, stereotypes imposed by the totalitarian regime began to be introduced into social life. The vocabulary that was introduced had an ideological, negative color, in all spheres, in particular the spheres of personal life and economy, with which the institutions of private law are inextricably linked.

For example, the word owner, as noted by linguists, had a negative interpretation and characterized a greedy person, "exploitation of workers" was associated only with capitalism (Renchka, 2018, p. 119).

Legal and economic constructions focused on condemning the capitalist way of development and private property. In general, the terms and their explanation artificially divided concepts into capitalist and Soviet ways of life and formed views that created boundaries between societies and legal relations, formed the invariable development of law through the imposition of an exclusively communist way of thinking.

According to scholars, there were clear trends and processes of the 1930s that took place in the Ukrainian SSR and contributed to the strengthening of the totalitarian regime in the Ukrainian SSR. They include "the establishment of the communist form of totalitarian ideology; monopolization of power by the Bolshevik party, elimination of other political parties from the political arena; the growth of the ruling party with the state apparatus; state blocking of the development of civil society; establishment of monopoly control over the economic sphere by the party- state apparatus, strengthening of centralized management of the economy" (Kondratiuk, 2013, p. 256)

Due to this past, the work of freeing the Ukrainian vocabulary from ideological components continues today, and it involves the reinterpretation of concepts in the economic, legal, and social spheres in accordance with democratic transformations.

The Civil Code of the Ukrainian USSR - a regulator of separate forms of private relations in the Soviet era.

Private relations in the Soviet period were defined exclusively as civil relations and were based on the provisions of the Civil Codes of the Ukrainian SSR of 1922 (Bazhana, 2004) and 1963, the Code of Laws on Family, Guardianship, Marriage and Civil Status Acts of the Ukrainian SSR of 1926 (Shemshuchenko, 2001), the Marriage Code and family of the Ukrainian SSR (1969) Codes of 1963 and 1969. These codes allowed the existence of some forms of private law relations,

and were applied, taking into account numerous legislative changes, in independent Ukraine until January 1, 2004, before the implementation of the Civil and Family Codes of Ukraine (2002).

As an example of the peculiarities of civil relations of the Soviet period, we will give excerpts from several court decisions.

On June 23, 1971, the Judicial Panel in civil cases of the Supreme Court of the Ukrainian SSR (1971) decided the dispute about the notary's refusal to certify the donation contract, noted that "according to Art. 86 of the Civil Code, the owner has the right to own, use and dispose of property within the limits established by law. According to the same law, the owner has the right to donate his property, including a car. The current legislation does not provide that when certifying a gift contract, the parties must present to the notary evidence that such a contract is free of charge. In accordance with art. 243 of the Civil Code, under a contract of donation, one party transfers ownership of property to another party free of charge. Therefore, the very conclusion of the donation agreement is proof of the gratuitous alienation of property. B. insisted that, giving the car to his daughter, he did not intend to receive any money, since he is financially secure (…) himself is an elderly person, cannot drive a car and does not use it. There is also no evidence in the case that B. intended to sell the car to his daughter under the guise of a gift contract".

On July 26, 1972, the same Judicial Panel in Civil Cases (1972), while considering a dispute about the division of property in marriage, noted that "when filing a claim for the division of property, D. indicated that she was in a de facto marital relationship with K. from 1953 to November 1959 and during this period they jointly built a house on a plot of land allocated in the latter's name. The case was decided by the courts more than once. By the last decision of the Irpin City People's Court of February 10, 1972, the claim was satisfied. By the decision of the judicial panel of the Kyiv Regional Court dated March 31, 1972, this decision was left unchanged. In the protest of the Deputy Chairman of the Supreme Court of the Ukrainian SSR, the question of annulment of the mentioned court decisions and referral of the case for a new consideration is raised. The protest is subject to

satisfaction on the following grounds. Recognizing D.'s ownership right to half of the house, the people's court referred to the fact that the parties lived as one family during the construction period, had the goal of creating joint ownership of the house, and ran a joint economy with a single budget, at the expense of which the construction was carried out. Therefore, the plaintiff should be recognized as the owner of the house on an equal footing with the defendant. The judicial panel of the regional court proceeded from these considerations when leaving the decision unchanged. However, this conclusion cannot be considered justified. In accordance with the current legislation, spouses who acquired the house during the marriage, or members of the collective farm yard can be participants in joint ownership of the house".

The presence of certain elements of private legal relations during the Ukrainian SSR period is obvious. We find an explanation for this in the works of Ukrainian and foreign researchers, who note that "as even the Soviet civil code was structurally derived from continental European law principles, the main model was German law" (Hoffmann, 2016, p.196), and the property right section in The Civil Code of the Ukrainian SSR of 1963 "as a whole was characteristic of the legislation of the country that built socialism and moved to the gradual construction of a communist society" (Kharitonov, 2011, p. 314).

Scientists note that the Civil Code of the Ukrainian SSR of 1963 was based on the Fundamentals of Civil Legislation of the USSR in 1961 and replaced the Civil Code of 1922, which expired together with the rejection of the NEP by the Soviet government (Kharitonov, 2013, p. 549).

Note that with the collapse of the New Economic Policy (in the 30s of the 20th century), there was a departure from the development of private law for the entire period of operation of the Soviet era, private relations and institutions were subjected to strict state control and ideological restrictions.

The Civil Code of the Ukrainian SSR (1963) regulated the relations of state, cooperative and other public organizations among themselves and with citizens, and citizens among themselves, and allowed for the possibility of actions arising on

grounds not provided for by law, but due to the "general principles and content of civil legislation" (art. 4 of the Code)

The structure of the code included eight chapters, which were formed in accordance with the civil legal order of that period. Normative expressions found the terms as persons under which citizens and legal entities were interpreted (modern provisions of civil legislation use the term "individual" instead of the term "citizens"), agreements (the conclusion of agreements in writing and verbally was allowed), representation and power of attorney, statute of limitations, property (Chapter II), liability (Chapter III), copyright (Chapter V), discovery (Chapter V), inheritance (Chapter VI).

The institutions built in accordance with the formed sections of the code were directed to the preservation of communist narratives with a small interspersion of the right to property and non-property relations. For example, property was considered as socialist ownership of the means of production, and was defined as the basis of property relations in Soviet society. As a category, property was further divided into state and personal. State property was interpreted as the common property of the entire Soviet people, the main form of socialist property (Article 89 of the Central Committee of the Ukrainian SSR). Personal property included objects of use, personal consumption, comfort and auxiliary household, a residential building and labor savings (Articles 88, 100 of the Civil Code of the Ukrainian SSR). At the same time, the land, its subsoil, water and forests were the exclusive property of the state and were provided only for use (Article 90 of the Civil Code of the Ukrainian SSR). The existence of collective farm-cooperative property, property of trade unions and other public organizations was also allowed, which were allowed to manage and use their own property according to the statutes (constitutional documents). Such property included buildings, constructions, tractors, harvesters, other machines, vehicles, which constituted fixed assets and in relation to which it was forbidden to carry out collection on the claims of creditors (Article 93 of the Civil Code of the Ukrainian SSR).

The personal property of a member of a collective farm yard was segregated, which included personal labor income and savings of a member of a collective farm yard, as well as property purchased by him with personal funds or received by way of inheritance or donation (Article 109 of the Civil Code of the Ukrainian SSR).

Joint ownership was allowed - property could belong to two or more collective farms or other cooperative and other public organizations, or to the state and one or more collective farms or other cooperative and other public organizations, or to two or more citizens (Article 112 of the Civil Code of the Ukrainian SSR).

A significant moment was the introduction of the collective form of ownership in 1990. It was a certain transformation of joint ownership of two or more collective farms to state and private forms of ownership.

The development of Private Law after the declaration of Independence of Ukraine (since 1991 to the present day).

After the declaration of Ukraine's independence, private law underwent significant changes in development, which was reflected in new legal acts that took into account the specifics of Ukrainian statehood and the desire for democracy and market relations.

The process of privatization, which began in the 1990s and aimed at the transfer of ownership from the state to private individuals and enterprises, also had a significant impact on the development of private law. This process required the development of new regulatory acts that would regulate property relations and allow the private sector of the economy to function effectively.

The transformation of collective ownership and agrarian (land) reform.

In 1990, significant changes took place in the field of ownership, in particular, the collective form of ownership was introduced (Article 86 of the Central Committee of the Ukrainian SSR). This initiative envisaged the possibility of reformatting the collective farm property, which previously belonged to two or more collective farms, to the property of the collective farm. This key stage in history determined a new direction of development and organization of economic activity, prompted the possibility of resource distribution in collective structures, which

subsequently became the object of privatization after the declaration of Ukraine's independence.

Collective ownership was declared in the Constitution of the Ukrainian SSR (Article 10), and later included in the provisions of the Land Code of Ukraine (1990), defined as a separate form of ownership of "collective agricultural enterprises, agricultural cooperatives, agricultural joint-stock companies, including those created on the basis of state farms and other state agricultural enterprises... horticultural societies". The legislator provided that "the area of land transferred to collective ownership is the difference between the total area of land owned by the respective Council and the area of land that remains in state ownership (reserve land, forest fund, water fund, reserve fund, etc.) and owned by citizens... lands are transferred into collective ownership free of charge" (Article 5 of the Land Code of Ukraine, 1990). The peculiarity of this form of land ownership is the possibility of a member of the enterprise to obtain the right of private (individual) ownership of a land share (share) with further formation into a land plot by unsoldering collectively owned lands and leaving the farm. At the same time, the share of land was subject to mandatory transfer to state ownership (forests, water, etc.), and the legal entity was to be terminated.

If we break down the agrarian (land) reform in stages, then first state farms and collective farms (forms of management in the Ukrainian SSR, the land was in their use) were transformed into collective agricultural enterprises - KAE (the form of ownership is collective), at the second stage each member of the KAE who had the right for a land share (share) and a property certificate, received appropriate certificates confirming his ownership of the number of cadastral hectares or property of a certain value, the third stage was the replacement of the certificate with a state deed on the ownership of the land plot and the issuance of the property certificate. On the basis of the introduced project, the right of private ownership of land and buildings was formed by the members of the former KAE, the rest of the property (forests, water bodies, nature reserve fund became state property by decision of the members of the enterprise).

Land reform began in accordance with the Decree of the President of Ukraine dated November 10, 1994 "On urgent measures to accelerate land reform in the field of agricultural production" (1994) by transferring land to collective ownership with subsequent privatization (soldering) of land that was used by agricultural enterprises and organizations, and determined urgent priority measures in the implementation of land reform in Ukraine.

The soldering of collective farms began in the 90s on the basis of an intergovernmental agreement between Ukraine and the United States and was financed by the United States Agency for International Development, implemented with the assistance of state authorities and local governments throughout Ukraine. The main idea of the Soldering Project is the transformation of collective agricultural enterprises into market-type legal entities. In that period, the greatest

suitability for functioning in market conditions was noted for farms, private enterprises and limited liability companies with a small number of founders (allotment of agricultural land and restructuring in the agriculture of Ukraine (The project of allotment of agricultural land in Ukraine, 2000).

However, with the adoption of the new Land Code of Ukraine (2001), the collective form of ownership was forgotten by the legislator for a long time (until 2019), as were the issues related to the unfinished procedures for unsoldering the lands of collective farms and the termination of their functioning as legal entities. And only after the approval of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Solving the Issue of Collective Land Ownership, Improving the Rules of Land Use in Massifs of Agricultural Land, Preventing Raiding and Stimulating Irrigation in Ukraine" (2018) did the process of de- soldering collectively owned lands acquire legislative expression.

Currently, these are land plots (shares), which, after the adoption in 2020 of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding the Terms of Sale of Agricultural Lands" (2020), were introduced into civil circulation with certain reservations regarding the ban until January 1, 2024 of the year of purchase and sale or alienation in another way in favor of legal entities

of land plots that are in private ownership and are classified as lands for commercial agricultural production, land plots allocated (in the area) to owners of land shares for conducting personal of the peasant economy, as well as land shares, except for the transfer to banks of the ownership of land plots as a pledge, transfer of land plots as inheritance, exchange (change) (clause 15 of the Transitional Provisions of the Land Code of Ukraine) (2001).

As we can see, the agrarian (land) reform in Ukraine, which began in the 90s as a plan to transform the agricultural sector to market conditions, stagnated in its implementation and created a significant number of institutional and legal disputes. At the same time, during the transformation of the collective form of ownership in Ukraine, processes of transition to individual and state-communal ownership took place, which became an important stage in the formation of private law due to several key aspects.

First, the individualization of property contributed to the emergence and development of private entrepreneurship. Personal property provided citizens with incentives for effective use of resources and development of their own entrepreneurial initiatives.

Secondly, the transition to state-communal ownership took into account the needs of society in the preservation of strategically important resources and guaranteed the government's control over them. This was intended to ensure public interests and avoid privatization of key elements of the economy.

Such property transformations led to the creation of new legal norms, the implementation of which determined the context for the development of private law in Ukraine, taking into account both the interests of individual citizens and the strategic tasks of the state. Thus, this period significantly influenced the formation and development of private law in the country.

Other aspects of the development of Private Law in Ukraine.

Since 1990, with the adoption of the Land Code of the Ukrainian SSR (1990), and later in 2001, the Land Code of Ukraine (2001), the possibility of acquiring ownership of a land plot through free privatization was introduced. The peculiarity of such acquisition of the right is the free acquisition of land allotments within the norms of free privatization at the expense of state and communally owned lands. For example, citizens of Ukraine have the right to receive a land allotment with a total area of 0.25 hectares free of charge by decision of the local self-government body for the maintenance of a residential building, farm buildings and constructions.

The free privatization of land plots has been partially suspended (clause 27 of the Land Code of Ukraine, 2001), with the military aggression of Russia and, accordingly, the introduction of martial law in Ukraine from February 2022.

It is also appropriate to note that with the adoption of the Land Code of Ukraine on January 1, 2002, it was established that the land plots are not returned to persons (their heirs) who owned land plots before May 15, 1992 (Part 4, Article 78). Despite the right of ownership, in the provisions of the Land

Code of the Ukrainian SSR of 1970 (Articles 20–22) (1970), and subsequently in the Land Codes of Ukraine of 1990 and 2002, the right of perpetual use in the traditions of customary law (consolidation of land plots under user) is preserved, but with the preservation of the legal construction of the Soviet period - permanent use, and not the counterpart of the European legal tradition - the right of usufruct. The disadvantage of the form of land use with the right of permanent use in Ukraine is the impossibility of registering the transfer of rights to a successor or heir, the use of land by other land

users, etc., which has resulted in a significant number of legal disputes.

At the same time, with regard to property in Ukraine, it is represented in the forms of state, communal and private property, which are widespread and usually determine the main nature of relations.

Objects of ownership can be movable and immovable things, property rights, results of intellectual, creative activity, etc., that is, everything that is included in the list of objects of civil rights according to Art. 178 of the Civil Code of Ukraine, while the criterion of certainty is the turnover capacity of the object according to the provisions of the legislation.

In addition, the legislation provides for the possibility of the existence of less common forms of ownership. In particular, trust ownership as a way of securing

obligations (§ 8 of the Civil Code of Ukraine) and collective ownership as a form of enterprise organization (Law of Ukraine "On Collective Agricultural Enterprise", 1992/ (42). These forms of ownership, although they are less common, have a certain meaning in certain areas of legal relations.

Note that at the beginning of the 90s, creating space for changes in the economy and the development of institutions of private law, the state began this process through the formation of private property through the denationalization and privatization of enterprises, land and housing stock and the formation of the institution of private property. The concept of denationalization and privatization was approved by the Resolution of the Verkhovna Rada of Ukraine (1991) and provided for the possibility for every citizen of Ukraine to own the means of production, housing and land with the help of appropriate registered privatization securities (certificates, coupon checks and vouchers) certifying the right to free acquisition of most of the state property to be privatized. According to the legislator's initial idea, "the process of intensive denationalization and privatization will last 4-5 years. It was planned that 60-65 percent of the property value of currently operating state enterprises and other objects will be transferred to non-state ownership.

The transformation experiment regarding the change of ownership from the state to private individuals took place rapidly and quite actively, which was facilitated by a number of approved regulatory legal acts that regulated the issue of such a transition according to sufficiently simplified procedures.

We can see the consequences of such a pace of decisions taken at the beginning of Ukraine's independence today. Researchers note that "the strategy of reforms, the essence of which is to reduce the improvement of the entire complex of property relations to privatization, is deeply flawed, which today is already clearly indicated not only by the theory, but also by the practice of management. In particular in some important industries and sectors" (Topishko, 2010, p. 541). They also came to conclusion that "the mechanism of legislative support for the activities of formal state institutions has gained scale in the context of the number of laws ... aimed at regulating the rations between power, business and civil society" (Hrytsenko, 2015, p. 74)

Let's note that certain inability, which contemporaries point out, is primarily related to the inability to move away from the command-administrative method of management, the regulation of processes, the presence of legal and legislative gaps, ineffective legal protection caused by the vagueness and veiling of legal norms, which create legal uncertainty and diverse law enforcement practice. We find confirmation of this in modern judicial practice.

Present day.

As we can see, reform is not only the intention of transformation - it is a strategic step-by-step adaptation of changes in combination with an analysis of the effectiveness of their implementation

to the state of social development. M. Prado and M. Trebilcock (2014, p. 178) emphasizes that "privatization can offer significant improvements in social welfare in middle and upper-middle income developing countries, but it is much less significant in low-income countries... while there is a connection between the benefits of privatization and the broader institutional environment that drives the reforms...if privatization is not coordinated with significant private sector reform...society gains little or nothing".

Awareness of the problem of finding new concepts and tools in the construction of Ukrainian law is important for understanding the strategy of developing a model of Private law already in a systematic combination with European law.

And here it will be appropriate to cite the reasoning of Mary Garvey Algero (2005, p. 776) that "The conditions of society, and men's attitude towards them, are slowly but constantly changing, and the law must do its best to keep in harmony with contemporary life and thought".

The first step in this is the adoption of the Concept on the main areas of systematic updating of the Civil Code of Ukraine, which was prepared by the members of the Working Group, formed by the Resolution of the Cabinet of Ministers of Ukraine "On the Formation of the Working Group on the Recodification (Update) of the Civil Code of Ukraine" (2019). As noted by members of the working group, the implementation of recodification follows from the logic of further transformation of society, in particular the formation of a real and effective market economy as an integral component of civil society and the European integration orientation of all components of society and the unconditional liquidation of the Civil Code of Ukraine (from the text of the Concept).

The tendency towards the development of Private Law continues in Ukraine to this day, in 2022 and 2023 the laws of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding the First Steps of Business Deregulation through Civil Liability Insurance" (2022) and "On Digital Content and Digital Services" (2023) have been approved, which confirm the constancy of developing the legislative field to social challenges.

Analyzing a number of normative legal acts, we cannot help but pay tribute to the presence of legal sense in the Ukrainian society in the formation of democratically oriented modern legislation and legal positions. The search for the construction of private law as a building site with a multi-level superstructure in the understanding of basic European values and the foundation of social and economic principles around which the public can build institutional democratic structures is noted.

It is important to remember that the formation of modern Ukrainian law takes place in synergy with the law of the European Union in accordance with the concluded Association Agreement between Ukraine and the EU (2016) and the decision approved in 2022 on granting Ukraine the status of a candidate for membership of the European Union (2022).

The long-term European integration process started in the 90s with the approval of the Partnership and Cooperation Agreement between Ukraine and the European Communities and their member states (1994) and the Program for the Integration of Ukraine into the European Union (2000). These are an indicator of the consistency and immutability of Ukraine's desire to establish close cooperation with European institutions and become a full member of the European Union.

3. Conclusion.

To sum up, the study of the evolution of Ukrainian private law in retrospect of its development gives reasons to assert the presence of deep, stable values of Ukrainian legal culture - respect, public reputation, justice and freedom, which is extremely important for building a human-oriented model of law based on the principles of the rule of law.

At the same time, the latest trends in the formation of legal concepts testify to the gradual awareness of the importance of harmony between the law and deep values of society. This approach is focused on the application of the basic principles of natural law and will be marked by a departure from the Soviet legal model.

Private law, in which the key role is assigned to civil legislation, is currently represented by other legislative acts, such as economic (corporate), natural resource (land, water, forest), etc. This testifies to the gradual formation of a new private law in Ukraine. Such a transition is an important stage in the development of the sphere of private legal relations. Taking into account the accumulated experience of past periods, this process goes beyond a simple transformation, requires strategic and phased adaptation, coordinated with the analysis of the effectiveness of implemented changes in the context of current and future social development. It is important to consider that the development of private law in accordance with the model of democratic countries is possible under the condition of an integrated approach.

Taking into account external and internal factors will contribute to overcoming the vestiges of the Soviet era and building private law that will correspond to the trends of the modern world. For example, the introduction of innovative products (blockchain, AI, etc.), the development of Internet platforms, is a reference point in the development of a new model of the institute of human rights and human rights practice, economic, contractual and other spheres of private relations.

Therefore, the construction of a new private law is a combination of one's own legal assets and the development of legal innovations with an orientation to the trends of the modern world and the practice of democratic countries.

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