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The Impact of the War on the Economic and Legal Environment of the Regions in terms of Ensuring National Security

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Abstract

The main objective of the article was to study the impact of the war on the economic and legal environment of the Ukrainian regions in terms of ensuring national security. The research methodology involves the use of modern methods of graphical modeling. The scope of study was the system of economic and legal relations that emerged in the course of hostilities. With the outbreak of hostilities, there are certain legal consequences for the belligerents: diplomatic and consular relations are terminated; economic, commercial, monetary and other business and agreements with legal and natural persons of Russia are terminated and prohibited, as a special regime can be applied to citizens of a hostile state; the declaration of a state of war leads to a change in the legal regime of the territories. However, most armed conflicts are not accompanied by a legal declaration of a state of war, which, nevertheless, introduces significant changes in the legal relations of the parties. Accordingly, the key aspects of the impact of war on the economic and legal environment in terms of security guarantees were characterized.

Keywords: legal support; legal environment; security policy; impact of war; economic and legal relations.

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El impacto de la guerra en el entorno económico y jurídico de las regiones en términos de garantía de la seguridad nacional

Resumen

El objetivo principal del artículo fue estudiar el impacto de la guerra en el entorno económico y jurídico de las regiones de Ucrania, en términos de garantía de la seguridad nacional. La metodología de investigación implica el uso de métodos modernos de modelización gráfica. El ámbito de estudio fue el sistema de relaciones económicas y jurídicas surgido en el curso de las hostilidades. Con el estallido de las hostilidades, se producen determinadas consecuencias jurídicas para los beligerantes: se ponen fin a las relaciones diplomáticas y consulares; se ponen fin y se prohíben los negocios y acuerdos económicos, comerciales, monetarios y de otro tipo con personas jurídicas y físicas de Rusia, ya que se puede aplicar un régimen especial a los ciudadanos de un Estado hostil; la declaración del estado de guerra conlleva un cambio en el régimen jurídico de los territorios. Sin embargo, la mayoría de los conflictos armados no van acompañados de una declaración legal de estado de guerra, lo que, no obstante, introduce cambios significativos en las relaciones jurídicas de las partes. En consecuencia, se caracterizaron los aspectos clave del impacto de la guerra en el entorno económico y jurídico en términos de garantías de la seguridad.

Palabras clave: apoyo jurídico; entorno jurídico; política de seguridad; impacto de la guerra; relaciones económicas y jurídicas.

Introduction

The process of formation and development of international law began with the emergence of countries and the emergence of relations between them. Slavery as the socio-economic base of the countries to a large extent influenced the relations between the old states. From the end of the III - beginning of the II millennium BC, one can speak of firmly established international relations of the slave-owning states.

A feature of these relations was their indirect nature, that is, the international norms originally regulated by them and the corresponding relations were created and developed in those regions of the world where the centers of the international life of countries arose. These are, first of all, the regions of China, India, the coasts of the Mediterranean and Aegean seas, the valleys of the Tigris and Euphrates, the Nile.

Peaceful means of resolving emerging international disputes began to be enriched in connection with the fairly widespread introduction of arbitration courts and arbitration. The Treaty of Westphalia of October 24, 1648 had a significant influence on the development of international law. This agreement established a common system of European states, their borders, and the principle of political balance.

The contract provided for all participants “the right to locality and supremacy” and the equality of European countries. This proceeded from the idea of concerted action by European countries, designed to solve common problems not on a religious, but on a secular basis (Bida, 2021; Chervyakova, 2020; Henderson, 2018).

The Hague Peace Conferences of 1899 and 1906–1907 made a significant contribution to the law of armed conflict. The first of these adopted, in particular, the Declaration against the use of projectiles, the sole purpose of which is to emit asphyxiating and noxious gases, and the Declaration against the prohibition of rockets and explosives from balloons or other similar new means, as well as the Convention for the Peaceful Settlement of International Disputes. The Second Hague Conference adopted ten new conventions and reviewed three acts of the 1899 conference (Kononenko *et al.*, 2022.).

At the same time, during this period, the right of countries to resort to war under certain conditions, the right to annex conquered areas and indemnities was still recognized. International relations have changed in the modern world. All this caused the need to formulate the ethics of law and the system of international relations in accordance with modern realities.

Of course, one needs to know how this happens: what generally accepted principles govern the consent of a state to be bound by the provisions contained in the relevant international legal instrument; what are the conditions for recognition of the obligation of such consent by other contracting parties; that there is a procedure for establishing contractual relations with certain participants; what legal rights and obligations are granted to the new participant of such entry.

The problem that attracts the attention of society is the resolution of conflicts between states. Despite the rapid pace of the spread of globalization and the established systemic and democratic relations between countries, disputes and conflicts continue to arise between states and other subjects of international law.

The resolution of such situations by force is an inhumane and unprofitable way to resolve conflicts, this has been proven by the human community on the example of two world wars and numerous riots. Therefore, now is the fundamentally complete and final introduction of peaceful methods for

resolving international disputes, which are the basis for the existence and stable functioning of an international society.

All of the above in the text forms the basis for the relevance of the chosen research problem. The main purpose of the article is to study the impact of the war on the economic and legal environment of the regions in terms of ensuring national security.

1. Materials and methods

Achieving the goal of the study required the solution of certain tasks that led to the use of theoretical ones: induction and deduction - in order to collect primary legal information; analysis and synthesis for information processing, selection of factual material and data based on the processing of the regulatory framework; descriptive and statistical - in order to characterize the system's economic and legal environment in terms of security; logical method - to understand the patterns of the impact of war on the economic and legal environment from the point of view of security; retrospective - in order to clarify the specifics of the impact of war on the economic and legal environment from the point of view of security; predictive method - to highlight the possibilities of using progressive ideas and experience; graphic modeling technique - to present the main models on the research problem.

2. Literature review

Coverage of the subject of ensuring human rights in a state of martial law involves the establishment of a number of methodological provisions. Firstly, human rights are the means that limit public power, preventing its arbitrariness. That is why human rights are a hallmark of a democratic state-legal regime. Authoritarian and totalitarian regimes do not recognize the natural nature of human rights and associate them with their own will: rights exist only when the authorities have "consecrated" them, fixing them in the text of a legal act (in this case, we are mainly talking about socio-economic rights).

Consequently, under a non-democratic regime, human rights are fully dependent on the will of state bodies. In the context of the subject of our study, the above provision allows us to establish that the introduction of martial law in a state with a non-democratic state-legal regime does not significantly affect the state of ensuring human rights, since the latter are not recognized as belonging to a person from birth; the recognition of individual rights does not significantly affect the state, which at any time can

refuse to accept them, based on “revolutionary expediency” (Kozachenko *et al.*, 2021).

As noted by most modern scientists and practitioners, martial law should be considered as a means of restoring the conditions under which a person can effectively exercise his rights and freedoms. Accordingly, human rights define the boundaries of the activities of public authorities to introduce martial law and the means used by it. At the same time, a number of rights cannot be limited, and the restriction of other rights cannot destroy their essence (Kryshchanovych *et al.*, 2022).

An important place in the economic and legal environment under the influence of war, a well-known system of international law. Some group of scientists notes that international law and international morality are two parallels, complementary, mutually influencing, mutually supporting, mutually restraining and mutually encouraging each other. Law allows a decent existence of people in the state system, morality - a decent existence in a private, family and family environment, and international morality is a synthesis of these positions.

Law and morality are the valuable life basis of any society (Kryshchanovych *et al.*, 2022). They are the regulators of interstate, interethnic, interpersonal relations. Law and morality create the closest contact in the regulation of social relations through the manifestation of universal goodwill, which can become a sign of international relations.

Therefore, filling the norms of international law with valuable moral content will have an impact on national systems of law through the process of ratification of international acts by the legislative institution of the state. Imperative norms of international law, enriched with moral content, at the same time enrich the state-legal systems of countries. The moral value of international law is to become a guarantor of the fair provision of the interests of the state and the realization of fundamental human rights and freedoms in every sovereign country (Liebrenz *et al.*, 2022).

The value of law does not lie in its declarative nature (although it is also an achievement, a conscious idea set out on paper and sanctioned by the state), but in the possibility of its implementation through the process of law enforcement, that is, ensuring the implementation of agreed international norms by the power of state and public institutions in a democratic sovereign state (Longobardo, 2019; Matvieieva *et al.*, 2021; Solis, 2021; Sylkin *et al.*, 2021; Sylkin *et al.*, 2021; Tataryn *et al.*, 2021; Yukhno, 2012).

However, due to significant scientific developments, it should be noted that the impact of war is chaotic and constantly changing. In such conditions, it is impossible to find a balance between law and economics, which always actualizes this issue in a new way.

3. Research Results and Discussions

The emergence and spread of digital technologies immediately led to the transformation of society and the legal system. The digitalization of modern social legal relations is forming a new legal reality, in particular in the field of constitutional law. Modern legislation does not provide a legal definition of the concept of «digitalization». Digitalization is a phenomenon characterized by a change in life processes through the active introduction of various types of digital technologies in the social, economic, legal and other spheres of human life.

The purpose of this process is to change the approach to the disposal, dissemination and storage of information. More than half of the world's population use various gadgets: smartphones, laptops, tablets and other devices that have greatly facilitated the process of searching and storing information. In practice, lawyers use electronic sources and databases instead of storing hundreds of legal acts necessary for work.

The key changes under the influence of the war in the economic and legal environment are shown in Figure 1.

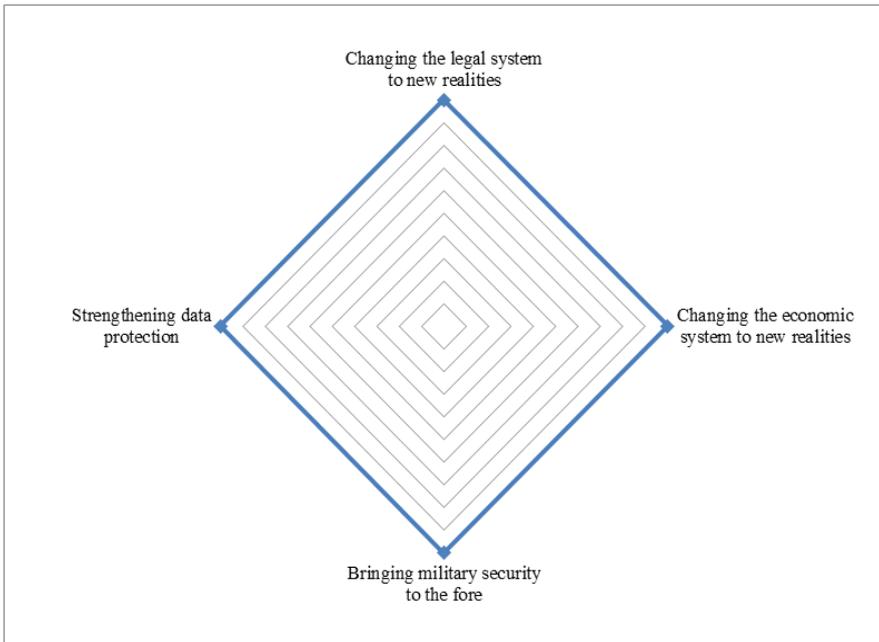


Fig.1. Source: Formed by the authors.

The constitutional branch of law has become an exception. The fact of replacing the paper Constitution with its electronic version makes it possible to look at the problematics of the issue from the side of appearance, the form of the basic law in the context of the concept of «Electronic Constitution». This wording does not have a legal definition enshrined in the law, in the scientific community it is unambiguous and generally accepted.

Speaking about the relevance of distance education, which has arisen in connection with the epidemiological situation caused by the spread of COVID-19, the barcode system should be noted. In this case, the use of digital technologies allows the society, to a certain extent, through the use of the Action portal, to exercise constitutional rights, with the provision of information about vaccination, to freely visit public places.

International legal jurisdictional mechanisms are an auxiliary means of protecting the national interests of the state, which should be applied when using all national legal remedies and in case of failure of the state to defend its national interests on its own.

Today, the activity of international jurisdictional bodies is one of the main guarantees of the effectiveness of international law and an important factor in further improvement. The development of international relations has a clear tendency towards the desire of states to adhere to the peaceful resolution of international conflicts by applying to international judicial bodies.

Fixing the list of rights that cannot be limited even during martial law is a constitutional guarantee of human and civil rights. So, in the event of a state of war or a state of emergency, this cannot be a basis for the use of torture, cruel or degrading treatment or punishment, for any restrictions on the right to life, freedom of thought, conscience, religion in the understanding of these rights and freedoms adopted in International Covenant on Civil and Political Rights and in the laws of Ukraine. And any attempt to use the imposition of martial law or a state of emergency to seize power or abuse it entails legal liability.

Civil rights and freedoms are an integral element of human freedom and provide a person not only with vital conditions for existence, but also provide an actual opportunity to freely dispose of himself, to guarantee non-interference in the sphere of his individual life. That is why, these rights apply not only to citizens of a particular state, but also to all other people legally located on its territory.

The main model for ensuring the security of the economic and legal environment under the influence of war is shown in Figure 2.

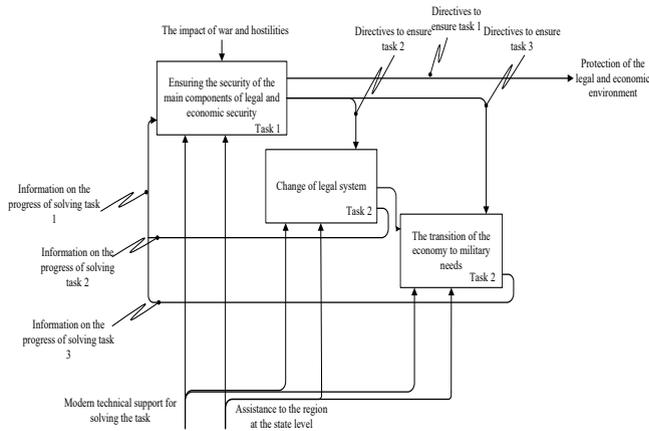


Fig.2. The main model for ensuring the security of the economic and legal environment under the influence of war. Source: Formed by the authors.

Civil rights and freedoms have their own special features, which, by their specific qualities, are: firstly, priority in relation to other rights and freedoms, which is emphasized by their location in Section II of the Constitution of Ukraine, that is, immediately after the principles of the legal status of an individual in Ukraine and before political and other rights and freedoms; secondly, these rights are natural and inalienable, since they belong to every person from birth, they are not acquired or alienated at will, they cannot be donated, sold, inherited or waived, and they do not depend on the recognition of them the state and are determined by the very fact of human existence; thirdly, these are well-established subjective human rights.

Under martial law, the military command is granted the right, together with executive authorities, military administrations and local governments, to introduce and implement measures of the legal regime of martial law. To this end, the military command is vested with the right to issue binding orders and directives on issues of ensuring defense, public security and order, and the implementation of measures of the legal regime of martial law (Kryshtanovych *et al.*, 2022).

During the legal regime of martial law, the authorized bodies have the right to prohibit the holding of peaceful meetings, rallies, campaigns and demonstrations, other public events, as well as the right to regulate the work of providers of electronic communication networks and / or services, printing companies, publishing houses, television and radio organizations,

television and radio centers and other enterprises, institutions, organizations and institutions of culture and the media and prohibit the transfer of information through computer networks. In areas where hostilities are taking place, the introduction and implementation of such measures of the legal regime of martial law rests directly with the military command and military administrations.

Conclusions

Summing up, it should be noted that under the influence of war, the right to freedom is important. The right to liberty and security of person is one of the most significant and important human rights. The prevention of arbitrary deprivation of liberty is regarded as one of the main principles of the protection of human rights. Human rights, despite their undoubted highest value in a democratic state governed by the rule of law, cannot be reduced to an absolute and be always and in all cases inviolable, because in the modern conditions of the development of any state, the practical activities of persons and bodies fighting war are impossible without limitation. constitutional human rights.

There must be a system of effective guarantees of these rights, where even if it is necessary to restrict them, it would be justified and legal. That is why the main international human rights instruments enshrine appropriate guarantees, including the right of every person to freedom and personal integrity. International Covenants duly contribute to the development of the domestic legislation of the countries of the world community in the direction of both ensuring human rights and freedoms and establishing legal grounds for their restriction.

War is an integral part of human history. For a long time, the war remained outside the legal regulation. Most of the international legal norms aimed at alleviating the fate of war victims dealt only with international conflicts. The parties to the conflict are not limited either in the choice of means and methods of waging war, or in the choice of targets for attack. They also have a duty to protect victims from the influences and consequences of war.

These fundamental ideas are reflected in the norms and principles of international law, which everyone must adhere to and, taking into account humanitarian considerations, limit the use of force. victims of such internal conflicts. Moreover, states have recognized that individual situations cannot be regarded as purely internal, but, on the contrary, they concern the international community as a whole.

For the security of the individual, it is also important to guarantee respect for private and family life, for housing and the secrecy of correspondence.

Until these rights are actually protected, there can be no question of personal security. In particular, Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms, while affirming the right of everyone to liberty and security of person, prohibits arbitrary arrest or detention. It is worth noting that, especially during the conduct of war, many end up in the colonies of states that directly begin hostilities.

Issues of constitutional and legal consolidation of the foundations of the relationship between the individual and the state, recognition of the priority development of civil society, as well as a clear legislative definition and proper practical guarantee of human rights and freedoms play a particularly important role in the functioning of any democratic state, especially in conditions of internal armed conflict.

Modern international law in the field of human rights and freedoms requires states to constantly monitor the implementation and improvement of their own legislation in this area. At the same time, the issues of ensuring, protecting and protecting human rights are not considered by the international community as a purely internal matter of the state.

It is fundamentally important to realize the need to ensure human rights under any circumstances. It is a general principle of the international law of armed conflicts that humane treatment must be ensured for the civilian population and persons who have withdrawn from the armed forces of both sides or have ceased to participate in hostilities. Guarantees are part of the national legislation and act as preventive levers for regulating the proper application of measures of state coercion to persons.

As a result, we tried to model key recommendations according to the research problem. However, the study has a number of limitations in the form of a theoretical and scientific nature. Further research requires practical aspects.

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