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FREEDOM OF EXPRESSION IN THE PROCESS OF CONVERGENCE OF THE LEGAL SYSTEM OF UKRAINE WITH THE EU ACQUIS: EUROPEAN STANDARDS, ECTHR PRACTICE AND CHALLENGES OF THE DIGITAL AGE

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Purpose. *The purpose of the study is to provide a comprehensive analysis of European standards for protecting freedom of expression in the context of the convergence of Ukraine's legal system with the European Union acquis. The study also examines the case law of the European Court of Human Rights concerning the exercise of the right to freedom of expression in the digital environment and identifies the main challenges and prospects for improving Ukrainian legislation in the context of digital transformation and European integration.*

To achieve this purpose, the study pursues the following objectives: to analyse contemporary approaches adopted by the European Court of Human Rights to the interpretation of Article 10 of the European Convention on Human Rights and to systematise its case law concerning freedom of expression in the digital environment; and to identify the specific features of the convergence of Ukraine's legal system with the EU acquis in the field of freedom of expression and the implementation of European standards.

Methods. *The methodological basis of the study is a comprehensive interdisciplinary approach to freedom of expression as a fundamental human right undergoing transformation under the influence of the digitalisation of social relations and Ukraine's European legal integration. The research draws on human rights theory, constitutional law, European Union law, international law, and the case law of the European Court of Human Rights.*

The systemic approach made it possible to examine freedom of expression as a complex legal institution connected with the principles of the rule of law, democracy, pluralism, personal data protection, information security, and digital human rights. The formal legal method was used to analyse Article 10 of the European Convention on Human Rights and relevant EU legal instruments. The hermeneutic method was applied to interpret the legal positions of the European Court of Human Rights, while the comparative legal method was used to examine the interaction between international, European, and national mechanisms for protecting freedom of expression.

The application of these methods enabled a comprehensive analysis of the legal mechanisms for protecting freedom of expression, an assessment of the role of ECtHR case law in the development of European standards of freedom of expression in the digital environment, and the formulation of proposals for improving Ukrainian legislation in the context of digital transformation and integration into the European Union's legal order.

Results*. The study analyses contemporary approaches adopted by the ECtHR to the interpretation of Article 10 of the ECHR and systematises the Court's case law concerning freedom of expression in the digital environment. It identifies the specific features of the convergence of Ukraine's legal system with the EU acquis and outlines the principal directions for implementing European standards, ECtHR case law, and EU digital legislation into Ukrainian law in the context of digital transformation and European integration.*

Conclusions. *The study establishes that ECtHR case law and the contemporary EU acquis are shaping new standards for protecting freedom of expression in the digital environment. It substantiates the need for the comprehensive implementation of these standards into Ukraine's legal system, taking into account the principles of the rule of law, legal certainty, proportionality, effective judicial protection, and European integration.*

Keywords: *freedom of expression; Article 10 of the European Convention on Human Rights; European Court of Human Rights; European Union acquis; European integration; digital rights; digital environment; Digital Services Act; convergence of legal systems; information law.*

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СВОБОДА ВИРАЖЕННЯ ПОГЛЯДІВ У ПРОЦЕСІ КОНВЕРГЕНЦІЇ ПРАВОВОЇ СИСТЕМИ УКРАЇНИ З ACQUIS ЄС: ЄВРОПЕЙСЬКІ СТАНДАРТИ, ПРАКТИКА ЄСПЛ ТА ВИКЛИКИ ЦИФРОВОЇ ЕПОХИ

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Метою дослідження *є комплексний аналіз європейських стандартів забезпечення свободи вираження поглядів у контексті конвергенції правової системи України з acquis Європейського Союзу, дослідження практики Європейського суду з прав людини щодо реалізації права на свободу вираження поглядів у цифровому середовищі, а також визначення основних викликів і перспектив удосконалення національного законодавства в умовах цифрової трансформації та європейської інтеграції України.*

Для досягнення поставленої мети необхідно вирішити ***такі завдання****: – проаналізувати сучасні підходи Європейського суду з прав людини до тлумачення статті 10 Конвенції та узагальнити його практику щодо забезпечення свободи вираження поглядів у цифровому середовищі; - визначити особливості конвергенції правової системи України з acquis Європейського Союзу у сфері забезпечення свободи вираження поглядів та імплементації європейських стандартів.*

Методологічну основу *дослідження становить комплексний міждисциплінарний підхід до аналізу свободи вираження поглядів як фундаментального права людини, що перебуває у процесі трансформації під впливом цифровізації суспільних відносин та європейської правової інтеграції України. Дослідження ґрунтується на положеннях теорії прав людини, конституційного права, права Європейського Союзу, міжнародного права та практики Європейського суду з прав людини. Основою методології є системний підхід, який дозволив розглянути свободу вираження поглядів як комплексний правовий інститут, що функціонує у взаємозв'язку із принципами верховенства права, демократії, плюралізму, захисту персональних даних, інформаційної безпеки та цифрових прав людини. Застосування цього підходу забезпечило дослідження взаємодії міжнародних, європейських та національних правових механізмів гарантування свободи слова.*

Таким чином, використання зазначених методів забезпечило комплексне дослідження правових механізмів гарантування свободи вираження поглядів, визначення ролі практики ЄСПЛ у формуванні європейських стандартів цифрової свободи слова та вироблення пропозицій щодо вдосконалення законодавства України в умовах цифрової трансформації та інтеграції до правового простору Європейського Союзу.

Результати *Проаналізовано сучасні підходи ЄСПЛ до тлумачення статті 10 Конвенції про захист прав людини і основоположних свобод та узагальнено практику Суду щодо свободи вираження поглядів у цифровому середовищі. Визначено особливості конвергенції правової системи України з* acquis *ЄС, окреслено напрями імплементації європейських стандартів, практики ЄСПЛ і цифрового законодавства ЄС у національне законодавство в умовах цифрової трансформації та європейської інтеграції.*

Висновки. *У результаті дослідження встановлено, що практика ЄСПЛ та сучасне* acquis *ЄС формують нові стандарти забезпечення свободи вираження поглядів у цифровому середовищі. Обґрунтовано необхідність комплексної імплементації цих стандартів у правову систему України з урахуванням принципів верховенства права, пропорційності, цифрової трансформації та європейської інтеграції.*

Ключові слова: *свобода вираження поглядів; стаття 10 Конвенції; Європейський суд з прав людини;* acquis *Європейського Союзу; європейська інтеграція; цифрові права; цифрове середовище; Digital Services Act; конвергенція правової системи; інформаційне право.*

Introduction. Freedom of expression is one of the fundamental constitutional values of a democratic state governed by the rule of law and a necessary precondition for the implementation of the principles of popular sovereignty, political pluralism, transparency of public authority, and the development of civil society. It ensures the possibility of freely forming and disseminating opinions, participating in socio-political life, exercising public oversight over the activities of public authorities, and enjoying other fundamental rights and freedoms. At the same time, contemporary security challenges, the rapid development of digital technologies, the proliferation of social media, disinformation, hate speech, and information manipulation have brought renewed attention to the issue of determining the permissible limits of state interference with the exercise of freedom of expression.

This issue acquires particular relevance in the context of Ukraine's European integration and the fulfilment of the obligations arising from its status as a candidate country for accession to the European Union. The harmonisation of national legislation with the EU acquis, the implementation of the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms and the case law of the European Court of Human Rights, as well as European Union legislation in the fields of digital services, audiovisual media, and the fight against disinformation, require a reconsideration of the national model for safeguarding freedom of expression. Of particular importance is the search for an optimal balance between the protection of freedom of speech, national security, the information security of the state, the maintenance of public order, the rights of others, and the need to counter information threats.

Despite the considerable number of scholarly works devoted to freedom of expression, insufficient attention has been paid to the relationship between the constitutional guarantees of this right and the standards of the EU acquis, the limits of state interference in the context of the digitalisation of the information environment, and the institutional mechanisms for safeguarding freedom of expression in the process of Ukraine's European integration. A comprehensive analysis of these issues is of not only theoretical but also considerable practical significance, as it contributes to improving the constitutional and legal mechanism for the protection of freedom of expression, ensuring an appropriate level of compliance with European human rights standards, and further strengthening Ukraine as a democratic state governed by the rule of law.

1. State of the Scientific Problem

Among contemporary foreign studies devoted to the transformation of freedom of expression in the digital age, a prominent place is occupied by the works of the Italian legal scholar *Oreste Pollicino*, who has developed one of the leading strands of the European doctrine of digital constitutionalism. His research focuses on the evolution of mechanisms for the protection of fundamental rights in the digital environment, the interaction between European Union law, the case law of the European Court of Human Rights and the Court of Justice of the European Union, as well as the role of digital platforms in safeguarding freedom of expression (Oreste Pollicino, 2019).

In his article "Judicial Protection of Fundamental Rights in the Transition from the World of Atoms to the World of Bits: The Case of Freedom of Speech" (2019), Pollicino argues that the digitalisation of society fundamentally transforms the traditional mechanisms for the exercise of freedom of expression. He develops the concept of the transition from the *"world of atoms"* to the *"world of bits"*, according to which a substantial part of public communication has shifted to the digital sphere, while global digital platforms have become the principal actors regulating information flows. In this context, the author demonstrates the need to rethink traditional mechanisms of judicial protection in order to ensure an appropriate balance between freedom of expression, the right to respect for private life, and other fundamental rights. (Oreste Pollicino, 2019).

The above approaches are most comprehensively presented in the collective monograph *Freedom of Speech and the Regulation of Fake News* (2023), in which Oreste Pollicino examines the relationship between freedom of expression, the fight against disinformation, and the emerging digital legislation of the European Union. The author considers the *Digital Services Act* as a qualitatively new stage in the development of the EU acquis, establishing a comprehensive framework for the transparency of digital platforms, content moderation procedures, and judicial safeguards for users (Pollicino, 2023).

An unquestionable strength of Pollicino's scholarly approach lies in its comprehensive integration of constitutional law, European Union law, and the case law of the European Court of Human Rights, which has made it possible to develop a contemporary model for safeguarding freedom of expression in the digital environment. At the same time, certain aspects of his approach remain open to scholarly debate. In particular, the author devotes considerably less attention to the specific features of implementing European standards within the legal systems of countries seeking accession to the European Union, the mechanisms for adapting national legislation, and the impact of states of war or other emergency regimes on the exercise of freedom of expression.

A significant contribution to the development of the international legal doctrine of freedom of expression in the digital environment has also been made by the British scholars Ian Brown and Douwe Korff, who developed one of the earliest comprehensive concepts for the application of international human rights standards to the digital environment (Brown & Korff, 2012).

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The authors argue that although the development of information and communication technologies does not alter the substantive content of freedom of expression, it fundamentally transforms the ways in which this right is exercised and the mechanisms for its legal protection. One of the most significant scholarly contributions of Brown and Korff is their substantiation of the concept of multi-level governance of the digital environment, according to which the responsibility for safeguarding freedom of expression rests not only with the State but also with private digital service providers and online platforms. Their proposals concerning the transparency of content moderation, independent oversight, and effective appeal mechanisms were subsequently reflected in European Union legislation, most notably in the *Digital Services Act*.

At the same time, it should be taken into account that the concept developed by the British scholars was formulated before the rapid advancement of generative artificial intelligence, algorithmic recommendation systems, and the emergence of the European Union's contemporary digital legislation. Consequently, it does not address the legal challenges arising from the application of the Artificial Intelligence Act or the latest regulatory mechanisms governing very large online platforms (Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence).

The analysis of the scholarly contributions of foreign researchers makes it possible to identify the contemporary European approaches to safeguarding freedom of expression in the context of digitalisation. The further development of these approaches can be traced in the works of Ukrainian scholars, who focus on the adaptation of Ukrainian legislation to the EU acquis, the implementation of the case law of the European Court of Human Rights, and the development of a national model for the protection of digital human rights.

Of fundamental importance for the study of freedom of expression in the context of Ukraine's European integration is the monograph by Stanislav Shevchuk, *Judicial Protection of Human Rights: The Case Law of the European Court of Human Rights in the Context of the Western Legal Tradition* (2010). This work constitutes one of the first comprehensive studies in Ukrainian legal scholarship devoted to the doctrine of the European Convention on Human Rights and the case law of the European Court of Human Rights as an autonomous source of the development of the national legal order. The author examines the Convention not merely as an international treaty but as a "living instrument", the content of which is shaped through the precedent-based case law of the ECtHR and which ensures the unity of the European legal space **(**Shevchuk**, 2010).**

A significant scholarly contribution of Stanislav Shevchuk lies in substantiating the need to integrate European human rights standards into national legal practice. Shevchuk consistently argues that the case law of the European Court of Human Rights should be applied by Ukrainian courts as an interpretative tool for constitutional rights and freedoms, which is of particular importance for ensuring the consistency of judicial practice and strengthening the principle of the rule of law. The approach proposed by the author has effectively become the theoretical foundation for the subsequent development of the Ukrainian doctrine of constitutional justice and the implementation of European human rights standards (Shevchuk, 2010).

Although the monograph was published before the beginning of the current stage of digital transformation and the emergence of the European Union's contemporary *acquis*, its methodological framework has not lost its relevance. The author's approaches to the rule of law, the principle of proportionality, the precedent-based nature of the ECtHR's case law, and judicial review of restrictions on human rights constitute a theoretical foundation for contemporary research on freedom of expression in the digital age, the implementation of the *Digital Services Act*, the *European Media Freedom Act*, and the convergence of Ukraine's legal system with the *EU acquis*.

A significant contribution to the development of the Ukrainian doctrine of the implementation of European human rights standards was made by Volodymyr Butkevych and Volodymyr Maliarenko. Their article, *The European Court of Human Rights and Ukrainian Justice: Issues of Interaction* (2004), became one of the first comprehensive scholarly studies devoted to the integration of the case law of the European Court of Human Rights into the national system of justice. Although the article was published before Ukraine obtained the status of a candidate country for accession to the European Union and prior to the development of the contemporary *EU acquis* in the digital sphere, its conceptual provisions continue to possess considerable methodological value for the study of freedom of expression in the process of the convergence of Ukraine's legal system with the European legal order (Butkevych & Maliarenko, 2004). The central idea of the article is the substantiation of the decisive role of the case law of the European Court of Human Rights in the development of the national judiciary and in ensuring the effective protection of fundamental rights and freedoms.

Butkevych and Maliarenko pay particular attention to the implementation of ECtHR standards in national legal practice, emphasising

the need to harmonise Ukrainian judicial practice with European approaches to the protection of human rights. The authors argue that the effective implementation of Convention rights depends not only on the legislative recognition of the relevant guarantees but also on the ability of national courts to apply the legal principles established by the ECtHR directly. This approach is of particular importance for safeguarding freedom of expression, since it is the ECtHR's case law that has established the criteria governing the permissibility of state interference, based on the principles of legality, legitimate aim, necessity in a democratic society, and proportionality (Butkevych & Maliarenko, 2004).

The scholarly value of the article also lies in its analysis of the Europeanisation of the Ukrainian judiciary through the integration of international human rights standards. Although the article does not examine the contemporary EU acquis, in particular the Digital Services Act or the European Media Freedom Act (Regulation (EU) 2024/1083), the authors' conclusions regarding the mandatory consideration of the ECtHR's case law, the primacy of Convention standards, and the role of the judiciary in safeguarding human rights provide an important theoretical foundation for contemporary research on freedom of expression. In the context of the convergence of Ukraine's legal system with the *EU acquis*, these conclusions confirm that the effective implementation of European standards is possible only through their systematic application by national courts and the establishment of effective judicial oversight over the limits of state interference with the exercise of this fundamental right.

An important contribution to the development of the contemporary Ukrainian doctrine of constitutionalism and European legal integration is made by the article of Oleksandr Petryshyn and Olha Hyliaka, *Human Rights in the Digital Age: Challenges, Threats and Prospects* (2021). The article provides a comprehensive analysis of the theoretical foundations of the rule of law as a fundamental constitutional value, examines the contemporary challenges to the functioning of a democratic state governed by the rule of law, and identifies the directions for the development of Ukraine's legal system in the context of globalisation, digitalisation, and European integration.

The central idea of the article is that the rule of law constitutes not only a fundamental principle governing the organisation of public authority but also a universal criterion for both the protection and the limitation of fundamental human rights. The authors convincingly argue that human rights and freedoms form the core of contemporary constitutionalism and that any state interference with their exercise must comply with the requirements of legality, legal certainty, legitimate aim, necessity, and proportionality. These principles define the substance of the European model for the protection of freedom of expression and are reflected in the case law of the Constitutional Court of Ukraine, the European Court of Human Rights, and the Court of Justice of the European Union (Petryshyn & Hyliaka, 2021).

The scholarly value of the article also lies in its examination of the transformation of the functions of the State in the context of contemporary global challenges, including digitalisation, the development of the information society, and the growing threats to national security. The authors emphasise that, even under such conditions, the State is obliged to act in accordance with the principle of the rule of law and to ensure effective institutional guarantees for the protection of human rights. Although the article is not specifically devoted to the *Digital Services Act*, the *European Media Freedom Act*, or the regulation of digital platforms, the proposed concept of the rule of law provides a fundamental methodological framework for the study of freedom of expression in the process of the convergence of Ukraine's legal system with the *EU acquis*. It makes it possible to view the implementation of European standards not merely as the adaptation of legislation but as a comprehensive constitutional transformation aimed at achieving a balance between information security, democratic values, and the effective protection of freedom of expression in the digital age.

The analysis of the scholarly works of foreign and Ukrainian researchers demonstrates that the issues of freedom of expression, digital human rights, and the European standards governing their protection have been extensively examined at the theoretical level. At the same time, the contemporary challenges of digital transformation, the rapid development of the *EU acquis* in the field of digital regulation, the emergence of new case law of the European Court of Human Rights, and the ongoing convergence of Ukraine's legal system with European Union law underscore the need for a comprehensive study of these issues. The analysis of the existing scholarship provides sufficient grounds to conclude that several important issues remain insufficiently explored, including the implementation of the latest European standards for safeguarding freedom of expression into Ukrainian legislation, the systematisation of the contemporary ECtHR case law concerning the exercise of this right in the digital environment, and the identification of prospects for improving national legal regulation in the context of European integration.

2. Analysis of Contemporary Approaches of the European Court of Human Rights to the Interpretation of Article 10 of the Convention and a Systematisation of Its Case Law on Safeguarding Freedom of Expression in the Digital Environment

The development of digital technologies has transformed the traditional understanding of freedom of expression guaranteed by Article 10 of the European Convention on Human Rights. Internet platforms, social media, and digital media have become the principal channels for

the formation of public opinion. At the same time, they have created new challenges to the exercise of this right, including the digital harassment of journalists, the blocking of online resources, issues relating to users' anonymity, and the liability of digital platforms and page administrators for third-party content.

In the process of the convergence of Ukraine's legal system with the EU acquis, the case law of the European Court of Human Rights has acquired particular significance, as it establishes universal criteria governing the permissible limits of state interference with online communication, namely legality, legitimate aim, necessity in a democratic society, and proportionality.

In *Khadija Ismayilova v. Azerbaijan* (Applications Nos. 65286/13 and 57270/14, Judgment of 10 January 2019), the European Court of Human Rights examined the case of a prominent Azerbaijani investigative journalist who had been subjected to a campaign of intimidation because of her professional activities. Following the publication of investigative reports concerning corruption and the activities of public officials, the applicant received threats and became the victim of unlawful interference with her private life through covert video surveillance and the dissemination of intimate materials on the Internet.

The ECtHR found that the respondent State had violated its positive obligations under Articles 8 and 10 of the Convention, emphasising that States are required not only to refrain from unjustified interference with freedom of expression but also to provide effective protection for journalists against attacks by private individuals where such attacks are intended to suppress journalism on matters of public interest. The Court further stressed that the digital dissemination of private information may be used as an instrument of intimidation capable of producing a "chilling effect" on investigative and critical journalism.

The judgment in *Khadija Ismayilova v. Azerbaijan* demonstrates the expansion of the traditional concept of freedom of expression: the protection afforded under *Article 10 of the European Convention on Human Rights* extends not only to the right to impart information but also to the State's obligation to create a safe environment for the exercise of journalistic activities in the digital age. For Ukraine, this approach is particularly significant in the context of protecting journalists, combating online harassment, and preventing the unlawful use of personal data.

In *OOO Flavus and Others v. Russia* (Applications Nos. 12468/15, 23489/15, and 19074/16, Judgment of 23 June 2020), the *European Court of Human Rights* examined the blocking of independent media websites by the Russian authorities without adequate judicial oversight. Access to these online resources was restricted on the basis of decisions issued by the prosecutorial authorities, which effectively resulted in preventing the dissemination of political and socially significant information.

The Court found that such interference constituted a violation of *Article 10 of the Convention*, holding that the blocking of websites amounted to a form of prior restraint on freedom of expression. The ECtHR emphasised that the complete blocking of an information resource constitutes an exceptionally severe measure that may be justified only where strict safeguards against abuse are in place.

The judgment in *OOO Flavus and Others v. Russia* establishes the standard that States may not use the blocking of digital platforms as a universal mechanism for controlling the information space. In the context of aligning Ukrainian legislation with European standards, this judgment is of particular importance for determining the permissible limits of state regulation of online content, especially with regard to combating disinformation, countering cyber threats, and addressing illegal content.

In *Standard Verlagsgesellschaft mbH v. Austria* (No. 3) (Application No. 39378/15, Judgment of 7 December 2021), the European Court of Human Rights examined whether a State could require a media company to disclose the personal data of users who had posted comments on its online news portal. The comments concerned political figures and contained critical statements that had subsequently been removed by the editorial staff. Nevertheless, the domestic courts ordered the disclosure of the identities of the authors.

The ECtHR held that anonymity on the Internet is not an absolute right; however, any restriction of such anonymity must be accompanied by an appropriate balancing of the competing interests at stake. In the Court's view, the Austrian courts had failed to conduct a sufficient assessment of the relationship between the right to the protection of reputation and the right to freedom of expression of both the users and the media company. Consequently, the Court found a violation of *Article 10 of the Convention.*

This judgment establishes an important digital standard: States should refrain from the automatic disclosure of the identities of online users, since such a practice may lead to self-censorship and reduce public debate on the Internet. At the same time, the ECtHR recognises the need for effective mechanisms to address illegal content.

In *Sanchez v. France* (Application No. 45581/15, Grand Chamber Judgment of 15 May 2023), the *European Court of Human Rights* examined the criminal liability of a politician for failing to remove, within a reasonable time, comments posted by third parties on his publicly accessible Facebook page during an election campaign. The comments contained statements that the French courts had classified as incitement to hatred against Muslims.

The Grand Chamber of the ECtHR concluded that holding the applicant liable did not violate Article 10 of the Convention. The Court took into account that the applicant's Facebook page was publicly accessible, that he was a political figure, that he had allowed third parties to post comments, and that he had failed to exercise

the necessary degree of control over content that was manifestly unlawful.

At the same time, the Court emphasised the need for caution in imposing liability on operators of digital platforms, since excessively burdensome moderation requirements may create a risk of restricting freedom of online public discourse.

Sanchez v. France establishes a new direction in the ECtHR's case law concerning the allocation of responsibility among content creators, page administrators, and digital platforms. For Ukraine, this judgment is of particular importance in the regulation of social media, the fight against hate speech, and the harmonisation of national legislation with European standards (Sanchez v. France, 2023).

Thus, the analysis of the above-mentioned judgments of the European Court of Human Rights demonstrates that freedom of expression in the digital environment is regarded by the Court as an extension of the traditional guarantee enshrined in Article 10 of the Convention, while taking into account the realities of the contemporary technological environment. The recent ECtHR case law demonstrates a shift from the exclusively negative obligation of the State to refrain from interfering with freedom of expression towards a model of positive obligations requiring States to create a safe and secure digital environment.

The principal standards established by the ECtHR include: the inadmissibility of using digital harassment as a means of suppressing journalistic activities (*Khadija Ismayilova v. Azerbaijan*); the requirement for strict judicial scrutiny of the blocking of online resources (*OOO Flavus and Others v. Russia*); the need to maintain a balance between users' anonymity and the protection of the rights of others (*Standard Verlagsgesellschaft mbH v. Austria (No. 3)*); the possibility of imposing liability on the administrators of public online pages for manifestly unlawful third-party content, provided that the principle of proportionality is respected (*Sanchez v. France*).

Thus, the ECtHR's case law serves as an important point of reference for Ukraine in the process of the convergence of its legal system with the legal standards of the European Union, as it contributes to the development of a legal framework for digital freedom of expression that simultaneously guarantees the openness of the information environment and protects human rights against emerging forms of digital abuse.

3. The Convergence of Ukraine's Legal System with the EU Acquis in the Field of Freedom of Expression and the Implementation of European Standards

The process of the convergence of Ukraine's legal system with the EU acquis in the field of freedom of expression constitutes one of the key directions of the country's European integration and involves the gradual alignment of national legislation, law enforcement practice, and institutional mechanisms with the European standards for the protection of human rights. This process has acquired particular significance in the context of the digital transformation of social relations, where the traditional concept of freedom of expression as the right to impart and receive information is evolving into a complex framework of digital rights associated with access to information, online communication, the protection of personal data, the liability of digital platforms, and safeguards against unlawful interference with the freedom of information exchange.

In contemporary European legal doctrine, freedom of expression is regarded not merely as an individual human right but also as a structural element of the democratic legal order. For this reason, Article 10 of the European Convention on Human Rights and Article 11 of the Charter of Fundamental Rights of the European Union constitute the fundamental normative benchmarks for the Member States of the European Union and candidate countries, including Ukraine. At the same time, the EU acquis in the field of freedom of expression is not limited to guarantees of freedom of speech but encompasses a comprehensive body of legislation governing audiovisual media, the protection of personal data, the regulation of digital platforms, and the promotion of transparency within the information environment.

As contemporary scholars of digital rights observe, the development of information technologies has led to the emergence of a new generation of human rights, within which freedom of expression has acquired a distinct digital dimension. According to Bratasiuk and Mentukh, digital rights are gradually evolving into an autonomous component of the system of fundamental human rights, encompassing the right of access to information resources, freedom of online communication, and the protection of individuals in the digital environment (Bratasiuk & Mentukh, 2021). A similar position is advanced by Didukh, who emphasises that the European approach to digital rights is founded upon the need to combine technological development with the guarantees of the rule of law and the protection of human dignity (Didukh, 2024).

One of the principal features of the convergence of Ukraine's legal system with the EU acquis is the gradual transition from fragmented information regulation to a comprehensive model of legal governance of the digital environment. Within the European Union, this model has been most consistently reflected in the adoption of the Digital Services Act (Regulation (EU) 2022/2065), which established new rules governing the operation of digital platforms, mechanisms ensuring the transparency of content moderation, procedures for the removal of illegal content, and safeguards protecting users against unjustified restrictions on freedom of expression (Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services (Digital Services Act)).

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A distinctive feature of the European regulatory model is the rejection of an approach under which the State exercises direct control over the information environment. Instead, it establishes a system of shared responsibility among public authorities, digital platforms, and users. This approach requires that any interference with freedom of expression be not only formally lawful but also proportionate, necessary, and justified from the perspective of safeguarding democratic values.

Recent scholarly research emphasises that the implementation of EU standards in the field of digital regulation requires Ukraine not merely to replicate European legal norms mechanically but to develop a coherent legal framework that takes into account national specificities while remaining consistent with European principles. In this regard, Casolari observes that the Digital Services Act establishes a new model of digital governance in which the principal objective is to strike a balance between combating illegal content and preventing disproportionate restrictions on freedom of expression (Turillazzi et al., 2023).

Another important direction of convergence is the implementation of the case law of the European Court of Human Rights into Ukraine's national legal system. Pursuant to the Law of Ukraine "On the Execution of Judgments and the Application of the Case Law of the European Court of Human Rights" (2006), the ECtHR's case law constitutes a source of law and must be taken into account by national courts when adjudicating cases concerning the protection of fundamental rights. In the field of freedom of expression, the judgments of the ECtHR serve as an important legal benchmark by establishing the criteria governing the permissible limitations on freedom of expression and by ensuring a balance between competing constitutional values.

Particular significance is attached to the ECtHR's recent judgments concerning the digital environment. In *Khadija Ismayilova v. Azerbaijan*, the Court developed the approach according to which the State is required not only to refrain from unlawful interference with the activities of journalists but also to provide effective protection against digital harassment where such conduct is intended to suppress journalism on matters of public interest (*Khadija Ismayilova v. Azerbaijan*, 2019).

In *OOO Flavus and Others v. Russia*, the ECtHR held that the blocking of Internet resources constitutes one of the most serious forms of interference with freedom of expression, as it may effectively restrict the public's access to information. The Court emphasised the necessity of effective procedural safeguards and judicial oversight over such measures (*OOO Flavus and Others v. Russia*, 2020).

The judgment in *Standard Verlagsgesellschaft mbH v. Austria* (No. 3) marked an important stage in the development of standards for the protection of Internet users' anonymity. The ECtHR recognised that anonymity in online communication constitutes an important element of freedom of expression and that any restriction of such anonymity must be imposed only where an appropriate balance is maintained between the right to freedom of expression and the protection of the rights of others (*Standard Verlagsgesellschaft mbH v. Austria (No. 3)*, 2021).

In *Sanchez v. France*, the Grand Chamber of the ECtHR examined the issue of the liability of administrators of social media pages for comments posted by third parties. The Court recognised that liability may be imposed where a person exercises effective control over the information space of a page and has the ability to remove illegal content. At the same time, it emphasised the need to avoid imposing disproportionate burdens on users of digital platforms (*Sanchez v. France*, 2023).

Thus, the contemporary case law of the ECtHR demonstrates a gradual transition from the classical model of protecting freedom of expression to a comprehensive concept of digital freedom of expression. For Ukraine, this signifies the need not only to adapt its legislation to the EU acquis, but also to develop new approaches to the legal regulation of digital communication.

Accordingly, the convergence of Ukraine's legal system with the EU acquis in the field of freedom of expression is characterised by the following principal features: first, the gradual harmonisation of constitutional and legislative guarantees of freedom of expression with European standards; second, the integration of the ECtHR's case law into the national judicial system; and third, the transition to the European model of regulating the digital environment, founded on the principles of transparency, proportionality, and the protection of fundamental human rights. In this context, Ukraine's European integration in the field of freedom of expression should be understood not merely as a process of legislative approximation, but as the formation of a new legal paradigm of digital democracy.

Conclusions. The conducted research has made it possible to undertake a comprehensive analysis of the contemporary European standards for safeguarding freedom of expression in the context of the convergence of Ukraine's legal system with the EU acquis and to identify the principal trends in the development of the legal regulation of freedom of expression in the context of digital transformation.

The findings demonstrate that the case law of the European Court of Human Rights has established a contemporary approach to the interpretation of Article 10 of the European Convention on Human Rights, according to which freedom of expression extends to the digital environment and encompasses not only an individual's right to impart and receive information, but also guarantees of access to digital communications, the protection of journalistic activities, the safeguarding of open public debate, and procedural guarantees applicable to restrictions on digital content. The analysis of the ECtHR's case law has revealed the evolution of judicial practice from the protection of traditional forms

of freedom of expression towards the development of comprehensive standards governing the digital information environment, taking into account the activities of online platforms, algorithmic content moderation, the fight against disinformation, and the need to maintain a balance between freedom of expression and the protection of other fundamental rights.

The study has demonstrated that the convergence of Ukraine's legal system with the EU acquis in the field of safeguarding freedom of expression is comprehensive in nature and is not limited to the formal approximation of national legislation to European Union law. It encompasses the implementation of the European principles of the rule of law, proportionality, legal certainty, effective judicial protection, and the ECtHR's case law, as well as the adaptation of the European Union's contemporary digital legislation, in particular the Digital Services Act, the European Media Freedom Act, and the Artificial Intelligence Act. At the same time, the process of adaptation must take into account the specific characteristics of Ukraine's legal system, the constitutional foundations for safeguarding freedom of expression, and the challenges associated with protecting national security in the context of armed aggression and information warfare.

The analysis of the scholarly approaches advanced by foreign and Ukrainian researchers has demonstrated that the contemporary European doctrine is gradually evolving from the classical understanding of freedom of expression towards the concept of digital freedom of expression, within which particular attention is devoted to the legal status of digital platforms, the transparency of algorithms, liability for content moderation, and the establishment of effective mechanisms of judicial oversight. At the same time, the study has identified that the implementation of the latest EU acquis into Ukraine's legal system, the specific features of applying the ECtHR's case law in the context of the State's digital transformation, and the development of legal mechanisms for safeguarding freedom of expression under martial law remain insufficiently explored.

It has been substantiated that the further development of Ukrainian legislation should be based on a comprehensive integration of the European standards for the protection of human rights, the case law of the European Court of Human Rights, and the legislative acts of the European Union governing the functioning of the digital environment. Such an approach will contribute not only to Ukraine's fulfilment of its European integration commitments but also to the development of a modern national model for safeguarding freedom of expression capable of responding effectively to the challenges of the digital age and ensuring an appropriate balance between freedom of expression, information security, and the protection of other fundamental human rights.

Accordingly, the objective of the study has been achieved, and the research tasks have been fulfilled. The findings may be used for the further development of the scholarly doctrine of information law, the improvement of Ukrainian legislation in the process of its harmonisation with the EU acquis, as well as in legal practice relating to the implementation of the European standards for safeguarding freedom of expression in the digital environment.

Scientific Novelty of the Research Findings The scientific novelty of this study lies in its comprehensive analysis of freedom of expression through the prism of the convergence of Ukraine's legal system with the EU *acquis*, taking into account the latest case law of the European Court of Human Rights and the European Union's contemporary digital legislation.

Unlike the majority of previous studies, freedom of expression is examined as an integral element in the development of the European model of the digital legal order, which ensures the interrelationship between the ECtHR's case law, the EU acquis, and the processes of Ukraine's digital transformation.

The study substantiates the necessity of a comprehensive implementation of European standards, taking into account the national specificities of legal regulation and the challenges arising from martial law, information security, and the development of artificial intelligence technologies. This approach broadens the existing scholarly understanding of freedom of expression as a fundamental right in the digital age and identifies promising directions for improving Ukrainian legislation in accordance with the contemporary EU acquis.

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