ISSN 2786-491X
e-ISSN 3083-7472
UDC 1+33+34
Doi: 10.63341/2786-491X-2026-1

Засновник:
Дніпровський державний університет внутрішніх справ

Рік заснування: 2021
Періодичність випуску: 2 рази на рік

*Рекомендовано до друку та поширення
через мережу «Інтернет» Вченою радою
Дніпровського державного університету внутрішніх справ
(протокол № 12 від 30 квітня 2026 р.)*

Ідентифікатор медіа: R30-02606
(Рішення Національної ради України з питань телебачення і радіомовлення
№ 180, протокол № 3 від 25 січня 2024 р.)

**Журнал включено
до Переліку наукових фахових видань України (Категорія «Б»)**
за такими спеціальностями: D8 Право.
(наказ Міністерства освіти і науки України № 928 від 11.06.2026)

Кластер журналу: Право.

**Журнал представлено
в таких наукометричних базах даних, репозитаріях та пошукових системах:**
Фахові видання України; Національна бібліотека України імені В.І. Вернадського; Crossref;
Google Scholar; OUCI (Open Ukrainian Citation Index); BASE; PhilPapers; Dimensions; Oslo University; Litmaps;
REPEC (Research Papers in Economics); Erih+

Адреса редакції:
Дніпровський державний університет внутрішніх справ
49005, просп. Науки, 26, м. Дніпро, Україна
E-mail: dduvs@phelr.com.ua
https://phelr.com.ua/uk

ISSN 2786-491X
e-ISSN 3083-7472
UDC 1+33+34
Doi: 10.63341/2786-491X-2026-1

Founder:
Dnipro State University of Internal Affairs

Year of foundation: 2021
Frequency: 2 times per year

Recommended for printing and distribution via the Internet by the Academic Council of Dnipro State University of Internal Affairs (Minutes No. 12 April 30, 2026)

Media identifier: R30-02606
(Decision of the National Council of Television and Radio Broadcasting of Ukraine No. 180, Minutes No. 3 of 25 January, 2024)

The journal is included in the List of professional scientific publications of Ukraine (Category "B")
in the following specialities: 0421 Law.
(Order of the Ministry of Education and Science of Ukraine No. 928 of 11 June 2026)

Cluster: Law.

The journal is presented in the following scientometric databases:
Professional Publications of Ukraine; Vernadsky National Library of Ukraine; Crossref; Google Scholar; OUCI (Open Ukrainian Citation Index); BASE; PhilPapers; Dimensions; Oslo University; Litmaps; REPEC (Research Papers in Economics); Erih+

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Philosophy, Economics and Law Review

Vol. 6. No. 1. 2026

Редакційна колегія

Philosophy, Economics and Law Review

Vol. 6. No. 1. 2026

Editorial Board

ЗМІСТ / CONTENTS

ISSN 2786-491X, e-ISSN 3083-7472

Philosophy, Economics and Law Review

Vol. 6. No. 1. 2026

Received: 02.12.2025
Revised: 19.03.2026
Accepted: 30.04.2026
Published: 29.05.2026

Journal homepage: https://phelr.com.ua/en

UDC 1:316.42:321:004

DOI: 10.63341/2786-491X-2026-1-06

Political anthropology of the subject: Digitalisation of discourse and the boundaries of the lifeworld

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Abstract. The relevance of the topic of the article was determined by the need to understand the trends in the development of modern political anthropology in the context of digitalisation of discourse. In this context, it also seemed appropriate to outline the phenomenological vision of the mentioned issues. The purpose of the study was to outline the directions and mechanisms of the existence of political discourse in the conditions of transformation of the lifeworld and reframing of digital subjectivity, as well as the significance of political anthropology as a methodology for studying not only the sphere of politics, but also communication in the digitalised world in general, since within it the distribution of information subjectivity emphasised the relationship between the elements and components of the political, social, cultural, etc. whole. The article used phenomenological, analytical and anthropological approaches to the problems of the transformation of human subjectivity under the influence of digitalisation of the socio-political space. It was established that the traditional methodology of political anthropology in the conditions of digitalisation of social communication, political relations and virtualisation of culture was insufficient, for which the method of historical and philosophical analysis was applied. The transformations of human subjectivity under the influence of the total digitalisation of socio-political space were investigated. Political anthropology was interpreted in the context of searching for an answer to the crisis of classical models of the rational subject, as one of the methodologies that offered a heuristic analysis of discursive mechanisms that determined the boundaries of the human lifeworld through the analysis of political and authority relations. It was stated that the rapid introduction of digital technologies blurred the concept of social and political action due to the need to include non-human formats of agency in this concept. The conclusions indicated that the boundary of the human was an ontological and political category that defined the right to vote and responsibility in terms of identity and presence. A vision of political anthropology as primarily a philosophical, rather than a political science subdiscipline, was proposed. The practical value of the study lay in the possibility of applying the considerations expressed and the conclusions proposed by specialists in social philosophy, political science, as well as in the process of teaching socio-humanitarian disciplines in higher education institutions

Keywords: social philosophy; discursive practices; reframing of political activity; political subjectivity and agency; lifeworld

Introduction

Political anthropology as an interdisciplinary field of knowledge arises in response to the crisis of classical models of political theory, which were based on the idea of a rational, autonomous and universal subject. In

Suggested Citation:
Kretov, P., & Kretova, O. (2026). Political anthropology of the subject: Digitalisation of discourse and the boundaries of the lifeworld. *Philosophy, Economics and Law Review*, 6(1), 6-18. doi: 10.63341/2786-491X-2026-1-06.

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the 20th and 21st centuries, these ideas undergo a significant revision under the influence of anthropological, sociological and philosophical research, which problematise the very category of the lifeworld as a semantic centre, the "core" of subjectivity. Also, the dynamics of digitalisation processes, especially in the field of content generation, primarily textual, actualises the issue of discursive practices as life forms and markers of a specifically human interpretation of social interaction in general and socio-political action in particular. Thus, the question arises about the limits of the human as the limits of the human lifeworld, since this phenomenological category retains its importance as a politically relevant category and a way of constituting the subject in authority relations. In this context, the reconceptualisation of political anthropology as a sphere of accumulation, structuring and understanding of the social, political and cultural experience of a cognitive agent as a subject of politics and political relations seems heuristic not only for manifesting the ambivalent consequences of digitalisation for human meaning generation, but also for analysing the discursive mechanisms of these processes, which can serve as a justification for the problematics of the research topic.

The manifested problems have been actualised in numerous studies in the latest years. In particular, the issue of the correlation of human agency and the agency of artificial intelligence (AI), as well as the related reconceptualisation of human subjectivity in relation to socio-political action, was studied by L. Floridi (2025). The researcher came to the conclusion that the scope of the concept of agency needs to be expanded in order to avoid blurring the content of the concept of subjectivity. The issue of uncontrolled expansion of the concept of agency in relation to the concept of subjectivity in the field of the political dimension of communication and culture, media space and content generation, the formation of narratives and discourses as social and political practices was considered by A. Puzio (2025), who singled out the feedback between the concepts of agency and subjectivity as a determining basis for control over the expansion of the use of generative AI. The convergence of digital and human subjectivity and agency was examined by A. Lykhatskyi (2024), which, in the author's opinion, can lead to a crisis of human identity in the ontological sense. According to O. Khodus (2024), the practice of permanent human transitions from real to digital experience becomes the cause of fundamental changes in the very foundations of anthropology. The essence of digitalisation processes in relation to the social structure and configuration of social ties was considered by domestic researchers

A. Ghedzyk *et al*. (2024), among whose conclusions, the statement that the determining and significant impact of digitalisation processes on the transformation of the social and political structure of society and the mechanisms of its functioning was relevant for the topic of the study. The latest typology of a political actor as a digital political subject was studied by a modern domestic researcher N. Steblyna (2021), whose conclusion regarding the prevalence of vertical information and activity connections over horizontal ones became relevant for the study. The aforementioned studies did not specifically consider the vision of actualised problems from the perspective of political anthropology, and not only in reliance on the description and statistical analysis of social interactions and structures and political activity, but also in the context of ontological issues (human subjectivity and identity, the correlation), as well as the optics of phenomenology (reception, comprehension, and verbalisation of experience, lifeworld structures). The purpose of the study was to clarify the intentions of the transformation of the usage and meanings of political discourse in the context of changes in the life world and the reconfiguration of human subjectivity, in parallel with outlining the significance of political anthropology as a methodological basis for studying not only the political sphere, but also information processes in a digitalised reality, since within it the distribution of the information field between human and AI agents transforms subjectivity, emphasising the relationship between the components of political, social, cultural, etc. systems.

Materials and Methods

The study used general scientific and philosophical methods to conduct a comprehensive conceptual analysis. Hermeneutic methodology was used to outline the concepts of agency and subjectivity, as well as the correlation between the scope and content of these concepts. In order to clarify the key conceptual apparatus and delimit basic terms, elements of analytical methodology were applied, namely to clarify the specifics of the concept of political anthropology. Etymological-linguistic interpretation of concepts, metaphorical modelling and actual post-structuralist deconstruction of discourse were used. In addition, a phenomenological approach and sociological optics (theoretical direction) were used to outline the context of conceptualising political anthropology as a philosophical subdiscipline against the backdrop of the digitalisation of political interactions in the media space and the virtualisation of culture. A comparative approach was applied in order to compare the political science and philosophical optics of considering political anthropology in the light of the digitalisation of socio-political action through digital discursive practices, narratives within the media space and the space of socio-political interaction.

In order to fix the phenomenological perspective of the study, a heuristic analysis of the discursive mechanisms of socio-political communication, individual and collective imagination as a prerequisite for the formation of a conditional conceptual agenda of individuals and communities at the level of the horizon of meanings and the life world was used. One of the research methods was historical and philosophical analysis, which allowed tracing the genesis of political anthropology in the 20th and 21st centuries and formulating a thesis about the relevance of its interpretation as a philosophical subdiscipline. Elements of discursive analysis were also applied to differentiate between the traditional understanding of socio-political action, which might involve dialogical practices of understanding and direct communication, and the mechanisms of digitalised discourse, which, even in the presence of authorship, functioned as depersonalised and dehumanised. The object of the philosophical analysis in this study was modern discursive practices associated with the Large Language Model (LLM) and digital frames of description and understanding of the sphere of political activity and interaction. The systemic approach provided the basis for analysing the phenomenon of political anthropology as a tool and, at the same time, a space of resistance to the challenges of dehumanisation of sociocultural interactions in the context of digitalisation as a mainstream trend in the development of civilisation, which manifested itself in various spheres: social, political, cultural and existential. This approach allowed integrating ideas from various disciplines, including social philosophy, phenomenology, sociology, cultural studies, political science, and discourse theory into a coherent research narrative.

The research was conducted through a thematic analysis of selected historical and philosophical conceptualisations of political anthropology, which allowed recording the need to rethink the tools and theoretical and practical content of political anthropology in the context of the virtualisation of culture and the digitalisation of socio-political communication, as well as the functioning of discursive practices and narratives in the media space and the space of culture. The concept of the lifeworld in this context was used as a marker of the transformation of the forms and modes of accumulation, comprehension, and approbation of the experience of political interaction at the level of individuals, groups, communities, and societies. Methodologies developed by other researchers were incorporated by applying a critical rethinking of classical concepts based on modern interdisciplinary approaches (such as modern cognitivism, the cluster of speculative realism, transhumanism, etc.). This allowed for the extension of classical interpretations to modern technological and globalised realities.

Results and Discussion

As a result of the analysis of the manifested issues, the following key vectors of transformational changes can be outlined, which may subsequently acquire the status of paradigmatic ones. In particular, political anthropology, in connection with the problematisation and reconceptualisation of human subjectivity and agency in the context of the emergence and dynamic spread of generative AI, goes beyond the problem field of classical anthropology, political theory, sociology, and political science, significantly approaching the searches of modern philosophical anthropology. In turn, human subjectivity, which was considered by political anthropology as a necessary and sufficient condition of agency, that is, the ability to act purposefully in a certain social system of interactions, has been limited by the need to differentiate human action and the action of a non-human agent (in particular, numerous language simulators based on generative AI), which has led to a crisis in the definition of human identity and anthropocentric visions of humanism (in particular, the emergence of phenomena of digital anthropology or post-Kantian non-anthropocentric ontologies). The phenomenological concept of the lifeworld is considered from the perspective of separating human (directly empirical, dialogical) and digital modes of accumulating experience and working with information. Discursive practices and narratives are considered as basic structures of meaning generation and control of socio-political action for political anthropology as a philosophical subdiscipline. It is important that the sociological optics of the analysed phenomena, applied in the theoretical aspect, allowed assuming the emergence of a tendency towards digital inertia of development and transformations of socio-political action and political relations within the structures of social communication, media space and cultural space, processes of meaning generation, and ultimately the formation of the experience of individuals, groups, and communities.

Thus, the following points of comparison and differences between the two analytical perspectives, political science and philosophy, can be identified: the role of discursive practices generated by human and AI agents in the formation of the philosophical picture of the world; the significance of these processes for the transformation of the concept of man (as a political actor and cognitive agent) and the human (in connection with the reconceptualisation of socio-political action) by political anthropology in retrospect and in the perspective of its development; the formation of a new digital subject based on the description of human experience by discursive AI agents. In general, political science theories and empirical approaches to the issues of discourse and speech practices are aspectual in nature, not focusing on the forms and modes of human linguistic agency as a subject of political or other action, as well as a cognitive (currently epistemological) agent, focusing on the discursive structure of political reality. This applies to the interpretation of discourse as an instrument of power (Foucault, 2002), critical discourse analysis (Cap, 2020), structuralism and poststructuralism with the theories of discourse (Narwaya, 2021), and the constructivist paradigm. A vision of discourse that is tangential to that manifested in this study is represented by framing theory (Chong & Druckman, 2007) and the narrative approach (Schlaufer *et al*., 2022), according to which discursive practices shape the agenda of public opinion (framing) and form the narrative structure of political action. In turn, empirical methods of discourse analysis in political science (content analysis (quantitative), computational linguistics (topic modelling, sentiment analysis), analysis of political debates, social network research, corpus analysis of political texts) do not necessarily raise the question of transformation and scaling of discursive agency and subjectivity, that is, philosophical consideration at the level of epistemology and philosophical anthropology, social philosophy. Therefore, it seems heuristic to consider the above-mentioned issues from a philosophical perspective. It is significant that Lyotard's concept of the war of narratives (Skordili, 2003) acquires new relevance in the digital age.

The rapid introduction of digital technologies in the field of social interaction and social communication is currently in the focus of attention of the humanities and social sciences primarily because of the difficult-to-predict consequences of the transformation of traditional life forms, formats of work with information, modes of social interaction and communication, models of cultural, social and political behaviour. It is worth assuming that at the intersection of phenomenological and sociological visions of human action, which includes conditionally objective/subjective manifestations of activity, the fundamental philosophemes of the lifeworld and social action must be reconceptualised. According to P. Kretov & O. Kretova (2022), the Weberian concept of social action (German: Soziales Handeln), under its modern reading as a socio-political action (in the context of the processes of globalisation, glocalisation, geopolitical restructuring and reconfiguration of political reality as a structure), is being eroded due to the crisis expansion of its own scope due to the need to include non-human formats, structures, and systems of agency in it.

The late Husserlian concept of the lifeworld (German: Lebenswelt) in turn is being problematised due to the transformation of the criterion framework and forms of expression of subjectivity, if the latter is considered not only from the perspective of critical post-Kantian approaches (in particular, the cluster of anti-correlationism, which includes not only the ontologies of speculative realism concepts, but also non-anthropocentric aesthetics of the late 20th – first quarter of the 21st centuries), as well as the searches of modern philosophy of information, philosophical anthropology and social philosophy. If, in conformity with L. Floridi (2025), the emergence of LLM language simulators based on generative artificial intelligence (AI) necessarily reveals a feedback loop between agency and subjectivity (primarily in the field of the virtual dimension of culture and communication, media space, content generation and the formation of narratives and discourses as social and political practices), then according to A. Puzio (2025), limiting the scope of the concept of subjectivity necessarily leads to an uncontrolled expansion of the scope of the concept of agency and vice versa.

Thus, the traditional correlation of subjectivity and intelligence as an entity and a feature is recognised as not corresponding to the existing realities, because if not taking into account the artificial formats of realisation (simulation) of intelligence, then the carrier of the latter can only be a person. But if assuming that this is so, then, according to L. Floridi (2025), it is necessary to expand the modern idea of activity, including forms of activity, such as artificial ones, which lack cognition, intelligence, intention or mental states. Therefore, agency can be ontologised and considered as a kind of quintessence of digital architecture, interaction, and communication. At the same time, it is necessary to clearly distinguish between the functional description of AI and the ontological consequences of its functionality for socio-political reality, which are rooted both in the specificity of the instrumentality of human culture as a mode of attitude to objective reality and in the human cognitive sphere. Thus, for entities whose defining feature is virtuality (currently this concept is interpreted in the orthodox meaning of J. Lanier as the ability to exist between the material and the mental, on the border of subjectivity and objectivity), the medieval alchemical metaphor of quintessence appears to be heuristic, since this fifth essence (according to Paracelsus) unites all entities and elements through man, the presence, and action. Indeed, if digital architecture unites the functionality, organisation and implementation of computer systems (which includes both hard and soft), then at the level of implementation it necessarily presupposes man, and the latter's participation can be interpreted both as a simple mediation between human and machine interaction, operator work or even an element of the system's periphery, and as a format of synergy between man and machine, the formation of a common cognitive space. Just as the quintessence in late medieval alchemy is not just matter, but the "soul" or active principle of matter, which is separated from the "body" (material shell) by means of alchemical processes, in the space of virtuality the agency of AI (currently primarily language simulators) acquires the illusion of subjectivity, is ontologised.

It is also necessary to distinguish between the concept of digital architecture, which fixes the functionality and methods of organising computer and network systems, and the concept of the digital configuration of society as its dynamic cultural, social, communicative and political structure, and the digital configuration realises itself not through the design capabilities of the functionality of certain software or computer equipment, but through human practices of generating content, orientation and self-positioning in the semiotic codes of culture and language, interaction with other cognitive agents and political actors within social and political structures, etc. This refers primarily to the non-obvious fact that the adoption of digital formats of human interaction and the corresponding transformation of life forms changes not only the actual ways of representing human activity, but also the person, transforming the person's subjectivity and adjusting agency. By analogy with the already classic paraphrase of M. McLuhan (1964) of the Latin proverb *nomen est omen* (name is message, fate, prediction) to *medium est message* (mediator is message), the current situation has the potential to transform the noetic and noematic structures of human consciousness, and therefore, with necessity, changes the conditional parameters of the information content of the human lifeworld, both at the Husserlian level of the horizon of meanings and at the Deleuzeian level of the plane of immanence, pre-logical and pre-verbal. The information channel, without losing its instrumental functionality, can acquire ontological content, displacing and replacing human subjectivity not only at the level of agency (if the interaction of virtual formats of agency and a person is understood as the delegation by a person to AI of the acceptance and implementation of the person's own decision), but also at the level of subjectivity itself – *simulatio est omen*.

Of course, this is inextricably linked to the problematisation of the concept of reality, which at the level of philosophical anthropology initiates a number of paradoxes. One such paradox is the paradox of self-realisation (Prisniakova *et al*., 2023) of a person on the border of the real and the virtual – extrapolating the core of the personality, behavioural models, value orientations, social habits to the virtual, a person encounters a twist of fate (irony of fate), when the individual's self-actualisation appears as an untrue existence. The defining feature in this context is the apparent antinomy of the human vision of reality and autonomous alternatives to it, in particular the hypothetical subjectivity of AI, which must nevertheless be represented within the framework of human semiotic codes and mechanisms of understanding, language, discourse, in general – within the framework of human consciousness, because following T. Nagel (1974), it is necessary to recognise that a person does not know what it is like to "be a bat", because it is impossible to criticise or undermine "something" with "nothing", that is, essentialism cannot be completely eliminated from the human description of reality and the semiotic codes of language and culture. The concept of non-human digital subjectivity ironically appears as a Kantian transcendentalism and semantic antinomy at the same time, or (an even more ironic analogy) similar to Freudian and Jungian psychoanalytic concepts of the unconscious, archetypes, and selfhood, which are not amenable to verification/falsification, but even to consistent definition. For philosophical anthropology, therefore, any formats of human activity that are not directly related to human subjectivity must appear as structures derived from it, its subsystems, since these structures are described by humans and function as concepts within the human horizon of meanings, lifeworld, and the semiotic code of language.

Therefore, it can be assumed that the autonomous agency of AI undermines not only the principle of correlation between being and thinking as a millennial Platonic foundation of the philosophical tradition of the West, but also the understanding of action as human activity, which is personified in all dimensions of subjectivity from cognitive to existential. According to O. Khodus (2024), the key feature of social relations formed through the mediation of digital technologies is the hybridity, or a-locality. In this context, hybridity means the gradual erasure of boundaries – social, symbolic, and physical – between private and public, material and immaterial, human and non-human dimensions, which occurs under the influence of digitalisation. For the subject, this is of fundamental importance, because hybridity undermines the traditional positionality of human experience, built on the logic of "either/or". In fact, this suggests that digital ontology is organised in such a way that a person can exercise the agency – through civic participation, bodily, linguistic and emotional manifestations, as well as various forms of interaction – regardless of the division into "virtual" and "real". At the same time, these categories are no longer tied to clearly defined spaces or boundaries, because in the conditions of radical digital transformation of society, the constant movement of a person between physical and digital realities is becoming a familiar state. This allows researchers to state the presence of processes of a certain convergence of digital and human subjectivity and agency (Lykhatskyi, 2024).

Such a metamodern metaaxis as a fluctuation between the empirical reality of the physical world and the virtual world, as if "embedded" in it, the reality of which differs significantly at the level of social and political practices, can lead not only to a certain "schizophrenification" (Deleuze & Guattari, 1983) of consciousness, but also to the emergence of a discursive ontological object that appeals to an alternative topology of consciousness, similar to the concepts of "round square", "high sea" (Marek, 2021). Objects are differentiated as those that exist objectively, into those that have existence (German: Existenz) and those that are characterised by presence (German: Bestand). It can be assumed, according to such logic, that, for example, the difference between human thinking and "machine thinking" cannot be doubted, but it does not exist (German: Existenz), but is present (German: Besteht). It is about objects and lenses – the former have existence, and the latter have presence (Kroon & Voltolini, 2023). In political anthropology, this may explain the effectiveness of post-truth technologies that depersonalise and anonymise knowledge and information and the emergence of political digitalised discourses (in particular, such centaur concepts as authoritarian democracy (conditional Trumpism) or democratic authoritarianism (rashism)). It is meant that the image of social reality is currently being formed within the processes of digitalisation of information and mediatisation (Cottle, 2006) of social action, because "the construction of identity increasingly depends on integration into the media infrastructure, and maintaining one's "digital body" requires constant access to social network services" (Karas & Skrynnyk, 2024). Thus, socio-political action, framed by technologies, can become impersonal, dehumanised, and automatic, not unifying through averaging, like Heidegger's Das Man, but through the creation of specific discursive practices in the media space, the virtualised space of culture, and digital communications.

It is not simply about lowering the threshold of criticality of information reception by people and communities or increasing manipulative influences on people and society in the field of socio-political action, but about the emergence of digital frames of description of political action, which are capable of functioning as performative speech acts and self-fulfilling prophecy. A person, joining the network content and algorithmic selection of information occasions that shape the person's agenda and influence the conditional grand narrative, the philosophical picture of the world, may lose the ability to free conscious socio-political action even at the level of social and political scenarios or habitus, that is, the discursive context itself will shape the boundaries of individual and collective imagination as Wittgenstein's boundaries of the human world, and action can thus be reduced only to a click, a certain tag or hashtag. Therefore, a person appears as a relay, part of the periphery of meanings that are usually not generated by this person and about which an individual is not determined with the need to accept or reject such meanings as a choice, evaluation, but only takes into account, broadcasting these meanings in a self-closed algorithmic cycle.

Taking into account one of the defining features of the digital society and, accordingly, digitalised politics as a set of interaction formats, which A.K. VandenBroek (2017) defines as superconnectedness, which in the context of the current topic means a complex correlation between numerous networks of connections and communications that form the architectonics of meaning-generation processes in individual and mass consciousness, and also influence the collective imagination, it should be noted a certain interference between the negative and positive freedom of a person and the person's socio-political action. This may mean that homo digitalis appears as a much more inertial actor in relation to political activity, i.e. personal intentions of meaning generation and individual socio-political action significantly lose the ability to influence the political space if such intentions are not installed, not involved in network processes of meaning generation and content creation, which are controlled not by people, but by algorithms. A paradoxical phenomenon of digital inertia of agenda-setting in the media and political space arises, in which human activities receive transformative power only if such activities are mediated by the digital communicative space, its formats and mechanisms. The biblical idiom about the voice of one crying in the wilderness acquires a completely ironic sound in the context of comparing approaches to human socio-political action in traditional philosophical anthropology and numerous visions of conditional digital anthropology.

Researchers A. Ghedzyk *et al.* (2024) argue that "the digitalisation of modern society can be defined as a set of processes of hyper-connectedness, networking, datification, platformisation and algorithmisation that occur simultaneously, support and reinforce each other. Hyper-connectedness manifests itself in the unprecedented prevalence of social connections and the methods, when distance and time no longer play the role that was previously inherent to such connections. As a result of hyper-connectedness, new social features of human existence are formed. Networking creates the basis for the existence of digital platforms and ecosystems that generate big data that allow for algorithmic management of social systems". These statements, while fully describing the current state of affairs and trends in the development of the situation, for obvious reasons do not provide for an analysis of the existential and axiological dimensions of social and political action, as well as the vision of political anthropology.

Scientific descriptions focused on capturing modern transformational trends related to information and communication technologies, precisely because of the descriptive nature, consider the issues of socio-political interaction from the perspective of macropolitics and macrosociological processes, while it is about significant changes not in the model of human integration into politics or in the methods of interaction with people and socio-political structures, but in the formation of new foundations of experience, mechanisms for its formation and comprehension, which practically means new cognitive settings of human consciousness. Modern researcher N. Steblyna (2021) argues that "a new type of political actor is a digital political subject that can implement policy only if the user networks available in the digital space are mobilised into its sphere of influence. It has been determined that networks are the main political resource of digital political subjects, and the integration of networks is a key condition for implementing effective policy in the context of global digitalisation. Digital political actors compete for the attention of fragmented communities, whose political participation is determined by personal interest, rather than political ideology or party affiliation. In these processes, classical political actors gradually lose the influence, and the political process itself is constructed from a series of political projects that involve the instantaneous integration of fragmented networks connected by weak ties to pressure decision-making. A descriptive approach to the issues of digitalisation of human relations and behaviour and digitalisation of socio-political action from a strategic perspective can lead to a loss of control over the defining vectors of development of the social sphere, and aspectual studies of this issue usually start from the beginning from instrumental meta-theoretical guidelines regarding the digital society, which is considered as not significantly changing human nature, while in the optics of philosophical anthropology and approaches of modern political anthropology, the actualisation of which is generally almost the same age as the digital transformations of civilisation and societies (the last quarter of the 20th – the first quarter of the 21st century), the digital era changes a person much more powerfully than scientists previously imagined.

The tradition of political anthropology was initiated in the 20th century by E.E. Evans-Pritchard (1940) to L.H. Morgan (1877), G. Balandier (1967). In addition to these researchers, there were also P. Clastres (1974), J.C. Scott (1972), C. Geertz (1973) and others who relied on the fundamental connection between the evolution of human sociality and the development of political theory. (Lewellen, 2003). In particular, the following criteria were used as a comparative consideration of the contribution and ideas of the mentioned thinkers: Methodological basis (evolutionism, functionalism, structuralism, systems analysis, etc.); Understanding of the political (as power, management, coercion, decision-making system, symbolic order); Anthropological model of man (biological, social, cultural, symbolic); Type of sociality (primitive societies, traditional, industrial, modern); Source of political power; Role of culture and symbols; Attitude to evolution/historical development; contribution to the formation of political anthropology as a discipline. The following generalising Table 1 is proposed.

Table 1. Main approaches of political anthropology in the pre-digital era

Author	Methodological approach	Understanding the political	Anthropological model	Source of political power	Role of culture	Scientific significance
L. Woltman	Biologisational evolutionism	Politics as a continuation of biological struggle	Biosocial	Biological inequality	Secondary	Introduction of the term, reductionism
L.G. Morgan	Classic evolutionism	Stage of development of social organisation	Socio-evolutionary	Generative structure	Limited	Historicisation of political forms
E. Evans-Pritchard	Structural functionalism	Social order without a state	Socio-structural	Segmental organisation	Integrated	Universality of the political
J. Balandier	Dynamic structuralism	Domination and symbolic power	Cultural-historical	Symbolic legitimation	Central	Symbolic analysis of power
D. Easton	System analysis	Authoritative distribution of values	Functional	Institutional legitimacy	Environmental	Integration with political science
P. Clastre	Anti-state anthropology	Mechanism of prevention of the state	Collectivist	Social control	High	Criticism of state-centrism
J. Scott	Critical anthropology	Everyday resistance	Agentic	Hidden practices	High	Politics "from below"
K. Geertz	Interpretive anthropology	Symbolic system	Symbolic	Cultural legitimation	Determinative	"Thick description" of the policy

Source: developed by the authors based on T.C. Lewellen (2003)

Agentic and symbolic anthropological models, especially the concept of "thick description", which assumes a deep contextual understanding of political actions, and not just the superficial description, reliance on contextual and multi-level interpretative analysis of meaning generation, are fully suited to the analysis of liminal political realities if the newest life practices and formats of experience of the digital era are considered "symbols of transition" (Turner, 1967). However, it should be emphasised that when it comes to the digital world, human sociality appears in a transformed form as largely anonymised, depersonalised and, in the Marxian tradition, alienated from the person, since the tools and mechanisms of human interaction, being ontologised, began to determine not only the modes and formats of this interaction, but also its source. Paradoxically, in the system of network politics and communication, a person appears as a peripheral element of a system in which it is not entities and subjects that determine its development, but the configuration, interaction, and relationship between elements in the composition of a virtual digital whole (media space, post-truth technologies, digitalised discourse, in which, in a completely Foucault sense, codes are autonomised in relation to referents)

Such a new superadditivity, appropriate for political anthropology, may mean that the methods of comparative consideration of traditional, archaic, modern power and politics, primarily genetic, functionalist, structuralist, typological, conceptual, are insufficient for considering systems of socio-political action between distributed non-human agents and limited human subjects. Modern researcher O.V. Krysenko (2015) notes: "The relationship between political science and anthropology…is quite interesting, because anthropological concepts of interpreting political phenomena (state, power, rule and political leadership, etc.) developed, in principle, independently of political science". This suggests that from the beginning, political anthropology had the potential for an anthropometric, actually philosophical vision of the political, and not just comparative descriptions of types of political governance, power, political relations, etc.

It is meant that modern political anthropology implicitly relies on the idea of a person as a bearer of freedom due to the very fact of thinking and self-awareness, which allows asserting the colossal humanistic potential of political anthropology in the context of the crisis of humanism, subjectivity, and the transformation of the social and political within the digital world. In particular, modern researcher V. Palahuta (2024), considering the issue of subjectivity in the digital world, appeals to the concept of "biomass", which until not long ago was considered relevant only in conspiracy discourse: "The process of individual digitisation significantly transforms the subjectivity of modern individuals. In fact, there is an individual, but this individual can no longer be called a subject by the standards of the classical understanding of subjectivity. In other words, now the modern world financial and economic elites, who control information flows and power structures almost all over the world (primarily in developed countries of the world), have launched global technologies for managing the behaviour of individuals as biomass. Therefore, when using such technologies due to the widespread use of digitalisation, the modern individual almost completely loses such an individual dimension as "being in freedom".

The controversy unfolds around the interpretation of the hypothetical consequences of the digitalisation of the representational forms of the subject: two main approaches are being formed, one of which interprets digitalisation as a basic mechanism and instrumental strategy of a "disciplinary society", or a "society of achievements" (German: Leistungsgesellschaft), in particular H. Byung-Chul (2023), while the second interprets the digitalisation of the subject in the Fuquanese tradition as a threat to the ontological status of man and the fundamental foundations of freedom, justice, and rationality for Western civilisation. It is noteworthy that such a vision of the subject can paradoxically take on the features of an existential-clinical analysis of the content of the human lifeworld, or rather, the psyche: "The philosophical discourse of the pathology of the subject in the second half of the twentieth century was investigated not only within the framework of the existential-phenomenological, but also the anti-psychiatric and sociocultural paradigm… The sociocultural paradigm considers the transformation of the subject in the clinical discourse of philosophical anthropology through the prism of the history of culture and society. Thanks to this consideration, the foundations and mechanisms of action of culture and history are revealed" (Skyrtach, 2018).

Such a seemingly simple differentiation of "instrumental/essential" in terms of political anthropology and the issues of digitalisation of the subject is significantly connected with the inevitable fact that justifies the trend and vector of development of modern social and political communication in particular and civilisation in general, which consists in conditioning the formats of meaning generation and understanding by semiotic codes of language, narratives and discursive practices. In a situation where the late Husserlian concepts of the horizon of meanings and the lifeworld are undermined by the significant transformation of human experience, the flow of which loses its direct connection with physical objectivity and, being virtualised, forms the space of decentered, distributed subjectivity and agency, the appeal to the modern dichotomy of freedom and coercion as Marx's alienation seems insufficient. Perhaps, in the context of the foundations of the analytical tradition and Lyotard's concept of the war of narratives, attention should be focused on the issue of the priority of content formation, primarily digital.

It is worth emphasising that it is not about the instrumental capabilities of language simulators for content generation, which will certainly only grow (Jones *et al*., 2025). It is about the ontological dimension of the phenomenon of meaning itself in the anthropological sense. Will such seemingly fundamental mechanisms of human understanding as the hermeneutic circle or noesis be functional in the context of reframing the flow of experience if the latter is predominantly receptively digitised and artificially generated by non-human agents? Current language usage testifies not only to changes in the reception of reality, both physical and virtual, in the communicative and media space, but also to the formation of new models of working with information that shift the emphasis from the rational to the emotional, from understanding to involvement, from meaning to absurdity (currently this concept is traditionally interpreted as one that does not completely exclude the presence of meanings).

For example, the concept of parasocial (word of the year 2025, according to the Cambridge Dictionary;

captures a one-sided existential and emotional connection between a person and a virtual subject – from an influencer to a chatbot or a fictional character). The Oxford Dictionary chose rage bait (provocative content generated to spread news through hype mechanisms) as the word of the year (The Oxford Word..., 2025). Merriam-Webster Dictionary has chosen slop (scum, scum) as the word of the year for 2025 – mostly AI-generated, partially or completely low-quality online content (2025 word of the year: Slop, 2025). It is also worth recalling the Oxford word of the year for 2024 – brain rot – a slang expression of generations Z and A, which is usually ironically used to denote a state of cognitive and existential stupor after a long immersion in the absurd and rhizomatic space of information flows of online platforms (Taylor, 2024). The point is that the production of cheap content capable of holding attention lends itself well to both monetisation and the formation of a political agenda in the collective imagination and mass consciousness. Therefore, the modern slogan of the Cold War era up to Fukuyama's infamous "end of history" – "one clip – one bomb" – is now significantly outdated, because Generation A, which consists of digital natives, is much more focused on absorbing information through short videos, infographics and interactive formats, voice assistants, educational programs, and therefore the very concept of intellectualism is undergoing transformation, and therefore the traditional settings of human cognition.

Political anthropology, as a philosophical subdiscipline, forming discursive practices of representing political activity in the conditions of digitalisation of social communication and virtualisation of culture, must form cognitive frames for the reception of linguistic usage. Thus, political anthropology will influence not only the formation of the phenomenological horizon of the subject's meanings and the agenda of the ideas about political and social reality, but also to a certain extent will determine the algorithmic structures of generative AI as a political agent and quasi-subject. Thus, in the digital era, the intuitions of L. Wittgenstein (1922) regarding the limits of language as the limits of the human world and J. Habermas (1984) regarding the communicative-discursive nature of socio-political action are actualised, which actualises the problematics of the subjectivity of speech and meaning generation. Political anthropology, thus, explicates its searches in the problematic field of the philosophy of language (and analytical philosophy in general) and phenomenology, which testifies to the interdisciplinary nature of the modern reinterpretation of political anthropology.

In general, political anthropology of the second third of the 21st century is likely to be more focused on the achievements of classical anthropology than on political theory, because digital society and the digitalised political space are paradoxically much more amenable to the methodology of analysing ritual and cult practices than was the case in the generally rational information space of the Western world of the second half of the 20th century. The resacralisation of politics and political space can be defined as one of the basic trends of the current situation and vectors of its development. Moreover, this is reflected not only in the systemic crisis of democracies and the renaissance of populist politics and ideologies that appeal to irrational values and virtues, in particular radical forms of nationalism that emphasise the philosophemes of "soil" and "blood", but also, firstly, in the transformations of mass culture, which, on the one hand, is becoming extremely complicated due to diversification, and on the other hand, due to substantive and formal simplification, is becoming much more vulnerable to manipulative practices and indirect control. That is why political discourse in the digital environment goes far beyond the simple fixation and promulgation of political doctrines or programs. Discursive practices in the digital dimension become a complement to visual content or anticipate it.

Modern researcher V. Sokolov (2025) notes that "discourse analysis is not only a description of linguistic structures, but also an interpretation of meanings that arise in a specific sociocultural context. However, digital discourses often exist in translocal and transcultural spaces, which complicates the empathic involvement of the researcher and can lead to false conclusions due to the lack of intertextual knowledge. In addition, the role of the researcher in social networks can be ambivalent: the researcher can be simultaneously an observer, a participant, an object, or even a part of the analysed environment. Researchers I. Erdocia *et al*. (2025), note that a modern political actor (and this applies to both individuals and communities, in the context of digital information interactions) may lose the very possibility of understanding both due to changing formats of working with information that do not provide for reflection, and due to the specifics of the information explosion situation, when the amount of information and the speed of interaction grow asymptotically.

Thus, it is more about responding, an action that is more instinctively determined than reflexively. The appeal to emotions in modern political discourse should therefore be the focus of attention of political anthropology, since it indicates not only openness to manipulation or the manipulative nature of interaction itself, but primarily a fundamental reconfiguration of the elements of political space. This, in particular, can lead in democracies to the decentering of subjectivity and the blurring of structures of political interaction between political actors, which primarily concerns the state and society, and in authoritarian regimes or quasi-democracies, on the contrary, to the hypercrystallisation of power structures, vertical reliance on mechanisms of control and suppression. Modern researcher N. Steblyna (2021) defines the elements of digital politics as "digital political subjects, fragmented communities (networks of users), united by weak horizontal ties, the digital field and digital infrastructure". According to such a vision, political anthropology should focus precisely on the study of vertical ties within the structure, that is, it is about the combination of two supposedly opposite tendencies: on the one hand, a digital political actor, losing the autonomy due to the loss of control over information interactions, joins a powerful vertical structure of relations; on the other hand, the blurring of the concept of subjectivity and the expansion of the concept of agency decenter the political space on a horizontal level, complicating the self-identification of a person as a source of socio-political action, power, rights, law, etc. From this perspective, a person appears as a relay of the current vision of political reality, its basic slogans and memetic images, which significantly limits the individual's analytical and critical capabilities as a cognitive agent.

Considering that Husserl's concept of the lifeworld necessarily includes, in addition to social interactions and everyday experience, also the world of imagination and delusion (Kebuladze, 2017), it is possible to assume that the digitalisation of the socio-communicative sphere, changing human life forms, also transforms its imagination, paradoxically adding to reality (perhaps in the mode of Merton's self-fulfilling prophecy), for example, verbal and visual construction of texts and videos by language simulators and generative AI, similar to delusions or hallucinations. But human subjectivity implies not only the ability to speak, but also the ability to be morally and politically responsible for one's statements. An automatically generated text cannot bear moral responsibility in the full sense: pessimistic scenarios demonstrate that when people begin to delegate responsibility to systems, a vacuum of responsibility arises between developers, users, and platforms. The political anthropology approach currently expounds the thesis of the correlation of subjectivity and responsibility (Wang *et al.*, 2024).

It is also crucial that the notion of authorship in digital discursive practices is being disrupted: when an article or political commentary is partly generated by an LLM, who is the author? Who bears the political consequences? This is not just a legal issue: it is a question concerning the self-identification of political actors and the legitimacy of the statements in the public space. Claims about the impossibility of distinguishing between human and machine generate crises of authenticity and identity, especially in the context of political propaganda. Also, the latest research by I. Erdocia *et al.* (2025) shows that cultural specificities are often lost in discursive models, which increases the risks of unification of political language. Thus, the problematisation of the agency of human socio-political action in the conditions of digitalisation of social communication, virtualisation of culture and its correlation with the agency of AI allows using the philosophical optics of these processes, which directly indicates the discursive and activity-based, practical reinterpretation of the fundamental categories of freedom, responsibility, justice, and law.

In the conditions of digitalisation, the communication channel ceases to be a neutral tool and acquires an ontological status. The mechanism of ontologisation of the medium has been recorded, in which digital architectures and discursive formats determine the parameters of the subject's experience, imagination, and meaning generation. The consequence of this mechanism is the delegation of cognitive and normative functions (assessment, interpretation, decision-making) to algorithmic systems, which causes a structural gap between action and responsibility. In a verified form, this means the transformation of the lifeworld as a space of human experience and the rethinking of the boundaries of the human as an ontological and political category. The fixation allows considering political anthropology not as a descriptive branch of political science, but as a philosophical methodology for analysing the discursive and ontological foundations of modern socio-political action. The thesis is proposed on the need to reinterpret modern political anthropology primarily as a philosophical, rather than a political science, subdiscipline. The assumption is substantiated that political anthropology, relying on discursive practices of political interaction and political narratives, has the opportunity to consider socio-political interaction not only as a structure or configuration of the political field or an algorithmised ritual sequence of political interaction, but also to take into account the cognitive and existential dimensions of the formation of political experience, that is, noetic and noematic structures of consciousness, using a phenomenological vision of human political activity. The boundary of the human is not only a philosophical category, it is political, as it determines who has the right to speak, to create discourse, who bears responsibility, and how political decisions are legitimised. With the advent of language simulators and generative AI, this boundary has been undermined, which means a transformation of the human lifeworld. Political anthropology, which traditionally studies the creation of the political subject, must take on the task of not only description, but also normative (at the axiological and ethical levels) intervention: how to preserve human responsibility, how to restore or reconstruct mechanisms of identification, and how to prevent the concentration of influence by private structures (tech corporations, for example, "Tech Bro" politics) or governments. In this sense, the boundaries of the human lifeworld, outlined by experience and narratives, discursive practices, are a space of political construction in which the vision of anthropology must be both an analytical and practical component and participant. Political anthropology records that the modern subjectivity is transindividual – it is formed in multiple distributed connections. The utilitarian implementation of AI in administration and decision-making may seem effective, but it changes the political structure of the transmission of meanings and decisions at all levels: from human participants to algorithms. If the subjectivity of political culture is automated, then the legitimacy of political decisions is also questionable. Therefore, political anthropology must question any automatic extension of AI agent systems to political functions without appropriate accountability mechanisms, because language simulators are effective tools for disseminating information. Such systems are also capable of amplifying disinformation, creating imitations of public opinions, and manipulating emotions. Political anthropology must focus on the fact that the legitimation of political discourse always requires authentication and the establishment of identity. Therefore, institutional responsibility should certainly be supported, cultural interpretability and inclusiveness should be developed in datasets, transparent markers of authorship and attribution should be defined, and educational practices of media literacy should be developed, but above these practices there should be a metatheoretical vision of the correlation of subjectivity and power, socio-political action and agency of AI, digital narratives and discourses, and the human lifeworld, shaped by political anthropology as a philosophical subdiscipline.

Conclusions

As a result of the examination of the manifested issues, the following conclusions were formulated. The study clearly identified three key mechanisms for the transformation of political discourse in the digital era: hybridisation of agency; algorithmic discursive framing; ontologisation of communicative media and delegation of responsibility. The functioning of political discourse in the context of digitalisation is determined by the mechanism of hybridisation of agency and the distinction between subjectivity and agency. The analysis found that digital political discourse is formed in the mode of systemic interaction of human and non-human agents (algorithms, language simulators, platforms), as a result of which the classical correlation "human subjectivity → political action" is violated. The mechanism of hybridisation of agency is recorded, which consists in the inclusion of non-human formats of action in the processes of meaning generation, representation, and transmission of political content. The verified consequence of this mechanism is the structural demarcation of subjectivity (as a bearer of responsibility and identity) and agency (as a functional ability to act), which changes the anthropological foundations of political discourse. The transformation of political discourse is implemented through the mechanism of discursive framing and algorithmic selection of meanings.

The study found that digital discursive practices perform not a descriptive, but a constitutive function in relation to socio-political action. The mechanism of algorithmic framing was identified, which consists in the formation of the agenda, horizons of significance and scenarios of political participation through digital platforms, media infrastructure and recommendation systems. This mechanism is verified through the reduction of political action to reactive, performative and symbolic acts (click, tag, hashtag), as a result of which the discourse not only represents political reality, but also defines its boundaries. The boundaries of the lifeworld in digital political discourse are established through the mechanism of ontologisation of communicative media and delegation of responsibility. The prospects for further research are determined by the need to deepen the analysis of transformational forms of discourses and political discursive practices, political narratives in the process of digitalisation of the processes of formation of human experience and digitalisation of social communication, media space and cultural forms and the influence on the emergence of new interpretations of human and machine subjectivity and agency, which would not eliminate from social and political practice the defining philosophemes of traditional humanism, such as freedom, choice, justice, etc.

Acknowledgements

None.

Funding

None.

Conflict of Interest

None.

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Політична антропологія суб'єкта: цифровізація дискурсу та межі життєсвіту

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Анотація. Актуальність теми статті визначена необхідністю осмислення тенденцій розвитку сучасної політичної антропології в контексті цифровізації дискурсу. Також у цьому контексті видається доречним окреслення феноменологічної візії зазначеної проблематики. Мета дослідження – окреслення напрямів і механізмів побутування політичного дискурсу в умовах трансформації життєсвіту та рефреймінгу цифрової суб'єктності, а також значення політичної антропології як методології дослідження не лише сфери політичного, а і комунікації в цифровізованому світі назагал, оскільки в ньому розподіленість інформаційної суб'єктності акцентує відношення між елементами та складниками політичного, соціального, культурного та ін. цілого. У статті використано феноменологічний, аналітичний та антропологічний підходи до проблематики трансформації людської суб'єктності під впливом цифровізації соціально-політичного простору. Встановлено, що традиційна методологія політичної антропології в умовах цифровізації соціальної комунікації, політичний відношень та віртуалізації культури є недостатньою, для чого застосовано метод історико-філософського аналізу. Досліджено трансформацій людської суб'єктності під впливом тотальної цифровізації соціально-політичного простору. Політична антропологія інтерпретована у контексті пошуків відповіді на кризу класичних моделей раціонального суб'єкта, як одна з методологій, які пропонують евристичний аналіз дискурсивних механізмів, що визначають межі людського життєсвіту, через аналіз політичних та владних відношень. Констатовано, що стрімке впровадження цифрових технологій розмиває поняття соціальної та політичної дії через необхідність включення до них нелюдських форматів агентності. У висновках зазначено, що межа людського є онтологічною та політичною категорією, яка визначає право голосу та відповідальність як ідентичність та присутність. Запропоновано візію політичної антропології як насамперед філософської, а не політологічної субдисципліни. Практична цінність дослідження полягає у можливості застосування висловлених міркувань і запропонованих висновків фахівцями із соціальної філософії, політології, а також у процесі викладання соціогуманітарних дисциплін у закладах вищої освіти

Ключові слова: соціальна філософія; дискурсивні практики; рефреймінг політичної діяльності; політична суб'єктність та агентність; життєсвіт

ISSN 2786-491X, e-ISSN 3083-7472

Philosophy, Economics and Law Review

Vol. 6. No. 1. 2026

Received: 12.11.2025
Revised: 25.03.2026
Accepted: 30.04.2026
Published: 29.05.2026

Journal homepage: https://phelr.com.ua/en

UDC 141.7:316.4:004.8

DOI: 10.63341/2786-491X-2026-1-19

From disciplinary power to algorithmic power: Philosophy of the subject in the twenty-first century

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Abstract. The expanding presence of algorithmic systems across governance and everyday social practices was shown to indicate a profound transformation of contemporary power relations and the rationality of governance in digital societies. The aim of the article was to conduct a philosophical analysis of the transition from disciplinary power to algorithmic power and to clarify how this shift redefined the conditions of subject formation in the twenty-first century. The study was based on a combination of hermeneutic interpretation, critical theory, and conceptual analysis, which were applied to reconstruct disciplinary models of power, examine transitional forms of control, and analyse contemporary regimes of algorithmic governance as socio-technical configurations. It was established that algorithmic power functioned through automated decision-making and predictive modelling, thereby transforming the epistemic foundations of governance and rearticulating the relationship between power, knowledge, and subjectivity. It was demonstrated that, unlike disciplinary power relying on institutional visibility and normalisation, algorithmic power operated in a decentralised and opaque manner and was embedded in digital infrastructures mediating everyday practices. It was analysed that algorithmic governance introduced an anticipatory temporal logic, whereby future behaviour rather than past action became the primary object of regulation. It was also shown that responsibility became diffused across distributed socio-technical systems, complicating classical ethical and political models. The results of the study could be applied in social philosophy, digital governance research, and the ethics of artificial intelligence to support the development of normative approaches to transparency and possibilities of critique and resistance in algorithmically mediated societies

Keywords: digital governance; social regulation; autonomy; agency; power relations

Introduction

The transformation of power in the digital age had become one of the central themes in social philosophy, philosophy of technology, and interdisciplinary studies of algorithms. At the global level, scholars had increasingly conceptualised algorithmic governance not merely as a technical development, but as a distinct configuration of power operating through digital infrastructures, automated decision-making, and predictive modelling. Recent research had examined the legitimacy of algorithmic governance and its normative implications for public administration. M. Veale & F.Z. Borgesius (2021) investigated how legal systems are responding to the development of artificial intelligence, particularly in the context of regulating algorithmic decisions. They demonstrated that traditional legal mechanisms, based on transparency and cause-and-effect relationships,

Suggested Citation:
Skyrtach, V., & Martynov, R. (2026). From disciplinary power to algorithmic power: Philosophy of the subject in the twenty-first century. *Philosophy, Economics and Law Review*, 6(1), 19-28. doi: 10.63341/2786-491X-2026-1-19.

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are ill-suited to algorithms that operate on the basis of probabilities and complex models. The authors analysed European regulatory approaches, including the GDPR, and identified gaps in ensuring accountability. In conclusion, they argue that new legal instruments are needed that take into account the specific nature of algorithmic opacity and the collective nature of harm. M. Wieringa (2020) focused on mechanisms of algorithmic accountability and their practical effectiveness. In her study, she analysed cases of the implementation of audits, explainability and algorithm control procedures in the public sector. The author demonstrated that most such mechanisms remain formalistic, as the systems themselves are not designed with the possibility of their comprehensible explanation to users in mind. Ultimately, the researcher concluded that accountability requires not only external control tools, but also a rethinking of the design of algorithmic systems. R. Kitchin (2019) investigated the epistemological implications of algorithmic governance, in particular the shift in decision-making logic. The author demonstrated that algorithmic systems foster so-called "predictive rationality", where decisions are made on the basis of predictions of future behaviour. It was demonstrated that algorithmic systems give rise to what is known as "predictive rationality", where decisions are made on the basis of predictions of future behaviour. This signifies a shift from traditional retrospective evaluation towards proactive intervention. In conclusion, researcher emphasised that such a transformation alters the very nature of power, making it more preventative and less accountable. T. Gillespie (2024) investigated the role of algorithms in the functioning of digital platforms, particularly in the context of content moderation and visibility. The researcher demonstrated that algorithms effectively perform the functions of regulators, determining which content becomes visible and which is marginalised. The research was based on an analysis of platform practices and policies, as well as their impact on public discourse. N. Couldry & U. Mejias (2022) argued that resistance had to confront the colonial logic of data extraction.

Taken together, these recent studies demonstrated that algorithmic governance had emerged as a transformative regime of power with profound implications for subjectivity, autonomy, and social regulation. However, despite extensive empirical and normative research, there remained an insufficiently developed philosophical comparison between disciplinary and algorithmic forms of power, particularly with regard to the ontological transformation of the subject. This gap provided the conceptual motivation for the present study. The aim of this article was to provide a philosophical analysis of the transition from disciplinary power to algorithmic power and to elucidate its implications for the constitution of the subject in the twenty-first century. To achieve this aim, the study addressed the following tasks: to identify the specific characteristics of disciplinary and algorithmic power and their infrastructural conditions; to examine transformations of subjectivity under algorithmic classification and predictive regimes; and to clarify the implications for autonomy, agency, responsibility, and the possibilities of critique and resistance.

Materials and Methods

The methodological approach of this study was grounded in contemporary social philosophy and critical digital studies. Given the complexity of algorithmic power as both a technological and socio-political phenomenon, the research adopted a pluralistic methodology combining hermeneutic interpretation, critical theory, and conceptual analysis. Hermeneutic interpretation was employed to reconstruct classical theories of power and subject formation, with particular attention to disciplinary mechanisms and their philosophical implications. This method allowed for a careful reading of foundational texts, focusing on how concepts such as normalisation, surveillance, and self-regulation were theorised in relation to modern institutions. Rather than treating these theories as historically closed, the study approached them as conceptual resources for analysing contemporary transformations of power.

Critical theory provided the tools for examining algorithmic power as a form of domination embedded in technological infrastructures. This perspective emphasised the role of economic interests, political rationalities, and asymmetries of knowledge in shaping algorithmic systems. Algorithms were not understood as neutral or purely technical instruments but as socio-technical assemblages that reflected specific values and priorities. By situating algorithms within broader relations of power, critical analysis avoided technological determinism and highlighted the normative stakes of algorithmic governance. Conceptual analysis played a central role in clarifying key categories such as "disciplinary power", "control", "algorithmic power", and "subjectivity". These terms were often used ambiguously in interdisciplinary debates, leading to conceptual confusion. The present study sought to define them with precision in order to distinguish between different modes of governance and their respective effects on subject formation. Comparative analysis was then used to trace continuities and ruptures between disciplinary, control-based, and algorithmic forms of power. In contrast to an empirical investigation of specific policy documents or regulatory frameworks, the study addressed algorithmic governance primarily at a conceptual and philosophical level, interpreting it as a distinct epistemic regime grounded in correlation, prediction, and uncertainty rather than causal explanation (Leonelli, 2016; Wieringa, 2020).

Accordingly, the research did not undertake a systematic empirical analysis of governmental documents, laws, or institutional strategies. Instead, the discursive dimension of algorithmic governance was examined at a theoretical level as part of the broader conceptual interpretation of contemporary debates on digital power. This methodological orientation was informed by established approaches in the philosophy of power and critical studies of digital governance. Hermeneutic reconstruction followed the analytical strategy developed in studies of disciplinary rationalities, where power was examined through its techniques, dispositifs, and modes of subject formation (Foucault, 1995). The critical analysis of algorithmic systems drew on contemporary research that conceptualised digital governance as a normative and legal challenge rather than a purely technical development. Conceptual clarification and comparative analysis were further supported by critical investigations of algorithmic knowledge and data-driven reasoning, which emphasised correlation, prediction, and uncertainty as defining epistemic features of algorithmic power (Kitchin, 2016; Amoore, 2020).

To further strengthen the methodological framework, the study incorporated several complementary analytical perspectives that allowed for a more comprehensive examination of algorithmic power as a historically situated and epistemically specific form of governance. The analysis drew on a genealogical approach to situate algorithmic power within a broader historical trajectory of modern governance. Rather than treating algorithmic systems as a radical rupture, genealogical analysis examined how contemporary modes of data-driven regulation reconfigured earlier techniques of surveillance, classification, and normalisation. This approach enabled the identification of continuities and discontinuities between disciplinary, control-based, and algorithmic forms of power, particularly with regard to temporality, visibility, and mechanisms of intervention. In this study, the genealogical perspective was applied as a conceptual reconstruction of transformations in modes of governance rather than as an empirical historical investigation of specific regulatory institutions.

An epistemological analysis was employed to examine the forms of knowledge that underpinned algorithmic governance. This perspective focused on the shift from interpretive and explanatory modes of reasoning towards correlation-based, probabilistic, and predictive forms of knowledge. By analysing how algorithmic systems produced, validated, and operationalised knowledge at a conceptual level, the study addressed the transformation of epistemic authority and its implications for decision-making, accountability, and legitimacy. In addition to the interpretative and conceptual approaches described above, the study incorporated a political-economic perspective in order to analyse the role of data extraction, attention monetisation, and value generation in contemporary algorithmic governance. Drawing on insights from critical studies of digital capitalism, this perspective examined how algorithmic infrastructures operate within broader economic logics of platform economies and surveillance-based data accumulation. Rather than conducting a quantitative economic analysis, the study employed a critical political-economic interpretation to understand how economic imperatives shape the design and deployment of algorithmic systems and influence the forms of subjectivity they produce.

The study included a conceptual analysis of generative artificial intelligence as a specific technological development within algorithmic governance. This analysis focused on the capacity of generative models to produce language, images, and symbolic content, thereby extending algorithmic power from classification and prediction towards the production of meaning. Generative systems were therefore examined not as technical artefacts in isolation but as socio-technical mechanisms that transform the conditions under which communication, interpretation, and subject formation occur in digitally mediated environments. Together, these additional perspectives allowed the study to integrate philosophical, epistemological, and political-economic interpretations of algorithmic governance while maintaining the primarily conceptual character of the research. The study adopted an infrastructural perspective interpreted in analytical rather than empirical terms. Instead of conducting a detailed technical analysis of particular platforms, standards, or computational architectures, the study examined infrastructures as conceptual sites where political rationalities were embedded and enacted. Thus, data infrastructures and classification systems were analysed as theoretical categories that help explain how algorithmic governance operates through distributed socio-technical arrangements, rather than as concrete technical systems subjected to empirical investigation.

Finally, elements of critical discourse analysis were incorporated as an interpretative framework rather than a systematic corpus-based method. Instead of analysing a defined body of policy documents or institutional strategies, the study examined how algorithmic governance was framed within broader academic and theoretical debates. This perspective allowed the analysis to consider how notions such as efficiency, objectivity, and innovation functioned discursively to legitimise algorithmic authority and to marginalise alternative forms of critique. The conclusion regarding the ontological transformation of the subject was reached through a comparative conceptual analysis, supported by genealogical and epistemological approaches. By comparing the implicit models of subjectivity presupposed by disciplinary and algorithmic regimes of power, the study showed that algorithmic governance required a different mode of subject existence – one based on probabilistic profiling and predictive assessment rather than reflexive norm internalisation. This shift in the conditions of knowing and governing the subject justified interpreting algorithmic subjectivity as an ontological transformation not merely in an epistemic sense, but in relation to the mode of being attributed to the subject. Under disciplinary regimes, the subject was constituted as a reflexive and norm-responsive agent whose identity was grounded in intentionality, self-relation, and moral accountability. By contrast, algorithmic governance presupposed a subject defined primarily through probabilistic modelling, behavioural regularities, and data-driven classification. What was altered was not simply the way the subject was described or evaluated, but the structural conditions under which agency, responsibility, and self-understanding were possible. In this sense, the ontological shift concerned the transformation of the subject from a bearer of intentional action to a statistically inferred entity whose existence within governance was mediated by correlation and optimisation rather than interpretation and deliberation. Taken together, these methodological perspectives complemented the hermeneutic, critical, and conceptual approaches outlined above. They enabled a multi-dimensional analysis that captured algorithmic power as simultaneously historical, epistemic, infrastructural, and discursive, thereby strengthening the analytical rigour and explanatory scope of the study.

Results and Discussion

Disciplinary power is interpreted as a historical response to the increasing administrative complexity of modern societies, in which sovereign mechanisms alone proved insufficient for regulating populations. Its primary objective was not punishment but normalisation. Through techniques such as surveillance, examination, and hierarchical observation, disciplinary power sought to produce individuals who conformed to established standards of behaviour and productivity. Power became effective not by repressing individuals but by shaping their conduct in advance. A defining feature of disciplinary power is its spatial organisation. Institutions such as schools, prisons, and factories functioned as enclosed environments in which individuals were subjected to continuous observation and evaluation. These spaces allow power to operate through visibility. Individuals became objects of knowledge, were measured, compared, and classified according to predefined norms. Through these processes, discipline produces subjects who were both individualised and standardised.

Disciplinary power also operates through the regulation of time. Daily schedules, timetables, and routines structured activity and imposed rhythms that shape bodily conduct. Time becomes a medium of control, ensuring efficiency, predictability, and productivity. The disciplined subject learned to align its actions with institutional expectations, internalising the temporal logic of power.

One of the most significant effects of disciplinary power was the internalisation of norms. Rather than relying on external force, discipline encouraged individuals to monitor and regulate themselves. Surveillance became internalised as self-surveillance. The subject anticipated evaluation and adjusted behaviour accordingly, often without conscious awareness of the governing norms.

This internalisation gave rise to a paradoxical form of autonomy. On the one hand, the disciplined subject appeared self-governing, capable of rational choice and moral responsibility. On the other hand, this autonomy was structured by norms that were not freely chosen but socially imposed. Freedom and control became intertwined.

Despite its pervasive influence, disciplinary power remained relatively transparent. Its mechanisms were institutionalised and identifiable. Schools, prisons, and factories could be named, criticised, and reformed. This visibility provided the conditions for resistance and political contestation. Subjects could recognise the sources of power and articulate forms of opposition.

While disciplinary power provided an effective framework for understanding modern forms of governance, its explanatory capacity became limited when applied to contemporary digital societies. Disciplinary institutions presupposed enclosed spaces, relatively stable norms, and subjects whose behaviour could be corrected through observation and normalisation. However, late modern societies were characterised by mobility, fragmentation, and the erosion of institutional boundaries.

As social life increasingly unfolded across networks rather than within institutions, power could no longer rely solely on spatial enclosure. Individuals moved between physical and digital environments, interacting through platforms that transcended traditional institutional frameworks. In this context, disciplinary mechanisms persisted but lost their central organising role. They were supplemented by more flexible and continuous forms of control.

This transformation signalled not the disappearance of discipline but its integration into broader regimes of governance. Disciplinary techniques remained operative in workplaces, educational systems, and bureaucratic organisations, yet they were increasingly intertwined with digital monitoring, performance metrics, and automated evaluation systems. The result was a hybrid landscape in which classical discipline coexisted with emerging forms of algorithmic regulation.

The concept of control marked an important transitional moment between disciplinary and algorithmic power. Unlike discipline, which operated through fixed norms and enclosed spaces, control functioned through continuous modulation. Power no longer sought to confine individuals but to track, assess, and influence them across multiple contexts.

Control operated in real time. Rather than correcting deviations after they occurred, it continuously adjusted the parameters within which behaviour unfolded. Access was granted or restricted, opportunities were opened or closed, and permissions were updated dynamically. The subject was no longer evaluated at discrete moments but was subjected to ongoing assessment.

This shift had significant implications for subjectivity. Under regimes of control, individuals were not addressed as stable identities but as variable profiles. Subjectivity became fluid, composed of changing attributes that were constantly recalibrated. The subject was no longer disciplined into a fixed norm but was modulated according to situational demands.

Early theoretical accounts of control emphasised the erosion of disciplinary enclosures and the emergence of more flexible, mobile forms of power. Control was conceptualised as a mode of governance based on continuous variation rather than fixed norms, in which institutional confinement gave way to open-ended processes of modulation (Deleuze, 1992). Subsequent analyses highlighted that such forms of power were inseparable from broader transformations of capitalism, governance, and social acceleration, in which regulation increasingly occurred through flows, networks, and real-time feedback rather than stable institutional frameworks (Lash, 2007).

From an economic perspective, algorithmic power was also understood as embedded in profit-driven models of digital capitalism, particularly those described as surveillance capitalism. In this context, the logic of data extraction, prediction, and behavioural modulation was not incidental but structurally linked to value production, as algorithms were optimised to maximise engagement, retention, and monetisable attention rather than epistemic accuracy or social fairness. This economic orientation shaped not only how algorithms operated, but also which forms of subjectivity became valuable, governable, and visible within algorithmic systems. This economic configuration corresponded to what S. Zuboff (2019) described as surveillance capitalism, in which behavioural data were extracted, analysed, and commodified in order to predict and shape future action. In this framework, algorithmic systems were not merely tools of governance but central instruments of value production, linking economic imperatives directly to the modulation of subjectivity. Consequently, algorithmic governance could not be adequately analysed without accounting for the economic imperatives that actively configured algorithmic rationality. From this perspective, control was understood as a transitional configuration that anticipated algorithmic governance by privileging adaptability, circulation, and ongoing assessment over normalisation, while remaining structurally connected to earlier disciplinary logics. Algorithmic knowledge did not misunderstand the subject; it simply had no place for misunderstanding at all.

Algorithmic power was characterised as a distinct mode of governance defined by automation, prediction, and data-driven decision-making. Unlike disciplinary power, which relied on visible institutions and explicit norms, algorithmic power operated through computational processes that were often opaque to those affected by them. Algorithms analysed large volumes of data to identify patterns, generated predictions, and guided action.

Rather than imposing rules directly, algorithmic systems structured the environment in which decisions were made. Recommendation algorithms, ranking systems, and scoring mechanisms prioritised certain options while rendering others less visible or less accessible. Power thus operated indirectly, shaping behaviour without issuing commands. This indirectness contributed to the perception that algorithmic governance was neutral, objective, or merely technical.

A defining feature of algorithmic power was its anticipatory orientation. By modelling future behaviour on the basis of past data, algorithmic systems sought to manage potential outcomes before they occurred. The future became an object of governance. This temporal shift distinguished algorithmic power from disciplinary correction, which responded to deviations after the fact. Prediction was central to the functioning of algorithmic power. Predictive models estimated the likelihood of future actions, risks, or outcomes, enabling institutions to intervene in advance. In domains such as finance, policing, healthcare, and employment, predictive analytics increasingly shaped decision-making processes.

Optimisation complemented prediction by defining desired outcomes and adjusting behaviour towards them. Algorithmic systems did not merely describe reality; they actively shaped it by promoting efficiency, engagement, or security according to predefined criteria. These criteria were rarely neutral. They reflected economic, political, and institutional priorities that remained largely invisible to affected subjects. Algorithmic social regulation thus differed fundamentally from disciplinary normalisation. Instead of enforcing conformity to stable norms, it operated through continuous adjustment and feedback. Individuals were governed not according to who they were, but according to what they were likely to do. The subject became a statistical entity defined by probabilities rather than intentions.

At the core of algorithmic power lay a fundamental transformation of subjectivity. Individuals were increasingly constituted as data subjects – entities defined by the continuous production, circulation, and analysis of data. This datafication of the self altered how subjectivity was understood and governed. Rather than being grounded in consciousness, intention, or narrative identity, the subject was increasingly represented as a set of behavioural patterns and measurable indicators. Subjectivity became legible to systems that operated through statistical correlation rather than interpretation or meaning. Datafication introduced a quantitative logic into the constitution of the subject. Qualitative aspects of experience – ambivalence, uncertainty, desire – were translated into numerical values that could be compared, ranked, and optimised. While this translation enabled algorithmic governance, it also reduced the complexity of human life. The subject was simplified in order to be governed efficiently.

Importantly, datafication was not a passive process imposed from outside. Individuals actively participated in it through their everyday use of digital technologies. However, this participation was asymmetrical. While subjects generated data, they had limited access to the models and criteria through which that data was interpreted. Algorithmic subjectivity thus emerged through a relationship of dependence and dispossession. Algorithmic subjectivity was characterised by a shift from stable identity to predictive classification. Rather than defining individuals by fixed attributes, algorithmic systems constructed identities dynamically, based on probabilities derived from past behaviour. Identity became something that was continuously recalculated and updated. This predictive logic had far-reaching social consequences. Algorithmic classifications determined access to opportunities, resources, and forms of recognition. Credit scores, risk assessments, and recommendation systems shaped life chances in ways that were often opaque and difficult to contest. Unlike disciplinary classifications, which were linked to explicit norms and institutional rules, algorithmic classifications operated through hidden criteria embedded in technical systems.

Predictive identity also introduced a temporal displacement in subject formation. Individuals were governed according to what they were expected to do rather than what they had done. The subject was treated as a future risk or opportunity. This anticipatory orientation challenged traditional ethical frameworks that tied responsibility to past actions and conscious intention. Moreover, predictive classification tended to reinforce existing patterns. Because algorithmic models relied on historical data, they reproduced past inequalities and biases. The subject was caught in a feedback loop in which prior behaviour constrained future possibilities. Transformation and self-determination became increasingly difficult. The emergence of algorithmic subjectivity raised fundamental philosophical questions about autonomy and agency. Classical accounts of autonomy presupposed a subject capable of rational reflection and self-legislation. Algorithmic governance complicated this picture by shaping the conditions under which choices were made.

Agency was similarly transformed. In algorithmic systems, action was distributed across human and non-human actors. Decisions emerged from interactions between individuals, data, algorithms, and institutional objectives. This distributed agency challenged models of responsibility that relied on individual intentionality. This situation generated a theoretical paradox that required further clarification: if algorithmic governance constituted the subject as probabilistic and structurally dependent, the question arose as to who could act as the bearer of collective subjectivity capable of resistance. The analysis suggested that algorithmic power did not eliminate subjectivity as such, but displaced intentional agency from the individual level to relational and collective configurations. While algorithmic systems operated by reducing individuals to profiles and behavioural probabilities, practices of resistance emerged not from isolated intentional subjects, but from coordinated forms of action situated at the level of infrastructures, data practices, and institutional arrangements. Conscious resistance was therefore grounded not in the restoration of a sovereign, fully intentional subject, but in a reconfiguration of agency as distributed, reflexive, and collectively articulated. On this basis, resistance remained philosophically possible precisely because algorithmic power presupposed relational environments in which subjects could recognise, contest, and reorganise the conditions of their own governability.

The results obtained in this study were consistent with a growing body of international research that interpreted algorithmic governance as a distinct configuration of power rather than a neutral technological development. Recent studies in critical data studies and political economy demonstrated that algorithmic systems increasingly functioned as infrastructures of governance that organised social behaviour through data extraction, prediction, and optimisation (Birch *et al*., 2021; Crawford, 2022). These findings supported the present analysis, which showed that algorithmic power reshaped subjectivity by operating through anticipatory and probabilistic logics rather than normative judgement.

Several contemporary scholars focused on the epistemic transformation introduced by algorithmic systems. M. Wieringa (2020) demonstrated that algorithmic accountability frameworks often failed because algorithmic systems were not designed to be intelligible to the subjects they governed. These conclusions confirmed the results of the present study, which established that algorithmic knowledge displaced interpretative understanding with correlation-based assessment, thereby altering the epistemic conditions under which subjects were rendered governable.

Research on datafication and subjectivity further corroborated the findings of this article. D. Lupton (2019) analysed how data practices reconfigured selfhood by translating lived experience into measurable indicators, while M. Fourcade & K. Healy (2017) showed that algorithmic classifications increasingly determined social worth through reputational and risk-based metrics. In contrast to these sociological accounts, the present study extended the analysis by arguing that such transformations should be understood as ontological rather than merely functional, since algorithmic governance presupposed a fundamentally different mode of subject existence.

Economic analyses of digital capitalism also aligned with the results presented here. Studies of platform capitalism demonstrated that algorithmic systems were structurally shaped by profit imperatives that prioritised engagement, predictability, and behavioural modulation (Srnicek, 2016; Birch *et al*., 2021). While these works focused primarily on economic mechanisms, the present study contributed a philosophical dimension by showing how economic rationalities were translated into modes of subject formation and governance.

At the same time, certain divergences between existing research and the present findings were noted. Empirical studies of algorithmic governance in public administration often framed algorithmic decision-making as a problem of regulation or ethics (Eubanks, 2018; Benjamin, 2019). While these analyses were valuable, the present study argued that such approaches remained insufficient unless they addressed the deeper transformation of subjectivity presupposed by algorithmic governance.

Finally, recent work on resistance and collective agency emphasised the limits of traditional political action in algorithmically mediated environments. S. Milan & E. Treré (2019) demonstrated that data activism increasingly targeted infrastructures rather than institutions, while M. Ziewitz (2015) proposed an interpretation of algorithms as forms of governance that are not necessarily based on explanation or transparency. The author examined how algorithmic systems operate through procedures and rules that stabilise uncertainty in complex social contexts. Drawing on a socio-legal analysis, researcher demonstrated that algorithms create order through repetitive practices rather than through the rational justification of each decision. Ultimately, the author concluded that algorithmic governance should be understood as a procedural form of power, rather than merely as a technical tool. These perspectives supported the conclusions of this study, which showed that critique and resistance were reconfigured under algorithmic power and required infrastructural and collective forms rather than individual opposition.

Overall, the comparison with recent international research demonstrated that the findings of this study both confirmed and extended existing debates. By integrating philosophical analysis with contemporary empirical and theoretical literature, the article contributed a systematic account of algorithmic power as a regime that transformed not only governance practices but the very conditions of subjectivity, responsibility, and critique. The preceding analysis allowed algorithmic power to be understood not merely as a technological extension of disciplinary and control-based mechanisms, but as a qualitative reconfiguration of the logic through which power related to subjectivity. While disciplinary power operated through the internalisation of norms within relatively stable institutional frameworks, and control regimes introduced flexibility through continuous modulation, algorithmic governance transformed the very conditions under which subjects were rendered knowable, governable, and responsible.

One of the central implications of this transformation concerned the ontological status of the subject. In disciplinary regimes, subjectivity presupposed a reflexive agent capable of recognising norms and adjusting behaviour accordingly. Algorithmic power, by contrast, increasingly addressed the subject as a probabilistic construct whose significance lay not in intentionality or self-understanding, but in behavioural regularities extracted from data. This shift suggested a move from a normatively grounded subject towards a computationally produced subject-position, where agency was inferred rather than exercised.

At the same time, algorithmic power introduced a new form of asymmetry between knowledge and self-knowledge. While disciplinary power relied on forms of visibility that allowed subjects to recognise, contest, or internalise norms, algorithmic systems operated through opaque processes that remained largely inaccessible to those they governed. As a result, subjects were subjected to evaluations and classifications they could not fully comprehend, challenge, or reinterpret. This epistemic asymmetry undermined classical models of autonomy grounded in transparency and rational deliberation.

The analysis also revealed a transformation in the temporality of governance. Whereas disciplinary mechanisms operated retrospectively by correcting deviations from established norms, and control regimes modulated behaviour in real time, algorithmic governance was fundamentally oriented towards the future. By acting on predictions rather than actions, algorithmic systems governed subjects in advance, effectively pre-structuring the space of possible conduct. This anticipatory logic raised critical ethical questions regarding responsibility, as individuals could be sanctioned, restricted, or categorised based on projected behaviour rather than actual decisions. This anticipatory orientation of algorithmic governance reflected broader transformations in the temporal logic of power, where future behaviour became the primary object of regulation (Kitchin, 2019; Amoore, 2020).

Furthermore, algorithmic power complicated traditional distinctions between coercion and consent.

Because algorithmic governance frequently operated through convenience, personalisation, and optimisation, power was experienced not as an external constraint but as facilitation. This blurring of domination and enablement made algorithmic power particularly resistant to critique, as subjects could actively participate in systems that simultaneously empowered and constrained them. The result was a form of governance that was internalised not through discipline, but through habitual reliance on algorithmic mediation.

The analysis of algorithmic governance also extended to recent developments in generative artificial intelligence, which introduced a further transformation in the mode of algorithmic power. Whereas earlier algorithmic systems primarily operated through classification, ranking, and prediction of behaviour, generative models were shown to produce language, images, and symbolic content that actively shaped communicative environments. In this sense, algorithmic power no longer functioned solely by evaluating subjects, but by participating in the production of discursive reality itself.

Generative artificial intelligence altered the relationship between governance and meaning by intervening directly in processes of representation, interpretation, and communication. Rather than merely sorting pre-existing data, generative systems contributed to the formation of narratives, categories, and semantic frames within which subjects understood themselves and others. This shift intensified the epistemic transformation already identified in the study: governance increasingly relied not on interpretative engagement with intentional agents, but on probabilistic generation and optimisation of communicative outputs.

As a consequence, subjectivity was not only classified and predicted but also co-produced within algorithmically mediated discursive environments. The subject encountered algorithmic outputs not merely as external evaluations, but as elements participating in the shaping of social reality. This development suggested a transition from algorithmic assessment of behaviour to algorithmic participation in the constitution of meaning, thereby deepening the ontological transformation previously described.

Importantly, the emergence of algorithmic subjectivity did not imply the disappearance of resistance or agency, but it did require their reconceptualisation. Resistance could no longer be understood solely as opposition to identifiable institutions or explicit norms. Instead, it had to address infrastructural arrangements, data practices, and algorithmic logics that shaped social reality indirectly. This suggested a shift from individual acts of resistance towards collective and infrastructural forms of critique that engaged with the conditions of algorithmic governance itself.

Finally, the analysis highlighted the methodological implications for philosophy. If power increasingly operated through computational systems rather than discursive or institutional forms, philosophical critique had to extend beyond interpretation to include engagement with technical, infrastructural, and epistemic dimensions of governance. Philosophy was thus confronted with the task of rethinking its own tools and categories in order to remain capable of critical intervention in algorithmically mediated societies.

In this sense, algorithmic power did not merely transform subjectivity, it transformed the conditions under which critique, responsibility, and political agency could be articulated. Understanding this transformation was essential for developing ethical and political frameworks capable of responding to the challenges posed by algorithmic governance in the contemporary world.

Conclusions

The transition from disciplinary power to algorithmic power was shown to mark a profound transformation in the governance of contemporary societies. Algorithmic power did not replace disciplinary mechanisms, but reconfigured them through datafication, prediction, and automation, thereby reshaping subjectivity and producing a form of algorithmic subject characterised by personalisation, classification, and anticipatory control. The analysis demonstrated that algorithmic governance challenged classical philosophical assumptions about autonomy, agency, and responsibility, as subjects appeared formally autonomous while becoming structurally dependent on algorithmic infrastructures. Beyond these general conclusions, the study allowed for several further conceptual clarifications. First, algorithmic governance was interpreted as a transformation of the rationality of governance itself, in which power increasingly operated through probabilistic assessment and anticipatory intervention rather than normative judgement or retrospective correction. Second, the findings suggested that algorithmic subjectivity emerged through a dual process of individuation and abstraction, undermining traditional notions of a coherent and stable subject and replacing them with continuously recalibrated profiles and risk-based representations. From a forward-looking philosophical perspective, the analysis indicated that the emergence of generative artificial intelligence further shifted algorithmic power from the classification of behaviour towards the production of language, images, and meaning. This development suggested the formation of a hybrid subjectivity, in which human and machine-generated expressions became increasingly entangled, complicating distinctions between authorship, agency, and responsibility.

The study also articulated a normative dimension of algorithmic governance. It was argued that ethical and political responses could not be limited to transparency alone, but required the development of algorithmic literacy, a right to opacity, and practices of counter-algorithmic design capable of contesting dominant modes of data-driven control. These developments also raised the question of whether meaningful forms of resistance remained possible within algorithmically mediated systems of governance. At the same time, the possibility of resistance within algorithmic governance was interpreted in a more limited and relational sense. Because algorithmic power frequently operated through anticipatory regulation and behavioural modulation, opportunities for reflexive agency did not arise solely at the level of individual decision-making. Rather, they emerged at points where algorithmic infrastructures became visible through institutional rules, interface interactions, or collective practices of critique. In such situations, subjects were able to recognise the conditions under which algorithmic classifications and predictions operated, thereby opening limited spaces for contestation and reinterpretation. At the epistemological level, the findings underscored that algorithmic power signalled the decline of a regime of understanding in favour of regimes of correlation and optimisation, thereby destabilising the status of the human subject as a moral and interpretive agent. Future research was identified as focusing on the development of normative and political frameworks capable of addressing the ethical and social challenges posed by algorithmic governance, taking seriously the distributed nature of agency and the infrastructural conditions of contemporary power.

Acknowledgements
None.

Funding
None.

Conflict of Interest
None.

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Від дисциплінарної влади до алгоритмічної: філософія суб'єкта у XXI столітті

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Анотація. Зростання присутності алгоритмічних систем в управлінні та повсякденних соціальних практиках вказує на глибоку трансформацію сучасних владних відносин та раціональність управління в цифрових суспільствах. Метою статті було провести філософський аналіз переходу від дисциплінарної влади до алгоритмічної та з'ясувати, як цей зсув переосмислив умови формування суб'єкта у XXI столітті. Дослідження базувалося на поєднанні герменевтичної інтерпретації, критичної теорії та концептуального аналізу, які були застосовані для реконструкції дисциплінарних моделей влади, вивчення перехідних форм контролю та аналізу сучасних режимів алгоритмічного управління як соціально-технічних конфігурацій. Встановлено, що алгоритмічна влада функціонує через автоматизоване прийняття рішень та прогнозне моделювання, тим самим трансформуючи епістемічні основи управління та переосмислюючи взаємозв'язок між владою, знаннями та суб'єктивністю. Продемонстровано, що, на відміну від дисциплінарної влади, що спиралася на інституційну видимість та нормалізацію, алгоритмічна влада функціонує децентралізовано та непрозоро та вбудована в цифрові інфраструктури, що опосередковують повсякденні практики. Проаналізовано, що алгоритмічне управління запроваджує випереджальну часову логіку, згідно з якою майбутня поведінка, а не минулі дії, стає основним об'єктом регулювання. Обґрунтовано, що сучасна суб'єктність дедалі більше конституюється через алгоритмічну класифікацію та випереджальне регулювання, що породжує парадоксальний стан поєднання формальної автономії зі структурною залежністю від алгоритмічних медіацій. Також показано, що відповідальність розпорошилася по розподілених соціально-технічних системах, ускладнюючи класичні етичні та політичні моделі. Результати дослідження можуть бути застосовані у соціальній філософії, дослідженнях цифрового управління та етиці штучного інтелекту для підтримки розвитку нормативних підходів до прозорості, а також можливостей критики та опору в алгоритмічно опосередкованих суспільствах

Ключові слова: цифрове врядування; соціальне регулювання; автономія; суб'єктність; владні відносини

ISSN 2786-491X, e-ISSN 3083-7472

Philosophy, Economics and Law Review

Vol. 6. No. 1. 2026
Received: 27.10.2025
Revised: 02.04.2026
Accepted: 30.04.2026
Published: 29.05.2026

Journal homepage: https://phelr.com.ua/en

UDC 342.7

DOI: 10.63341/2786-491X-2026-1-29

The idea of informational self-determination and personal data protection in Ukrainian law

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Abstract. The field of personal data protection is becoming increasingly important, as the processing of information that can identify an individual has become common. Such processing is highly automated, raising a question about the effectiveness of personal data protection in the age of artificial intelligence. The answer to this concern depends, in part, on understanding the fundamental reasons behind the special status of personal data. This article aimed to examine current legal frameworks for the relations regarding personal data protection in Ukraine. It focused on the idea of informational self-determination and explored why and how individuals can control the collection and processing of their personal information. To achieve this goal, the following research methods were used: analysis and synthesis, structural and logical generalisation, and formal legal method. The results of the study revealed that the concept of informational self-determination is related to the right of every person to independently decide whether their personal information can be processed. The study analysed the interrelation between informational self-determination and privacy, while the former serving one of the theoretical models for understanding the nature of rights regarding personal data and justifying the requirement of non-interference in personal and family life. It was found that although the idea of informational self-determination originated in 1983, it still remains an important theoretical basis for studying data protection issues. The study substantiated the need to improve Ukraine's legislation on personal data protection, as it has become more difficult for individuals to maintain control over personal data. The findings are significant for both law-making and law application within the field of personal data protection, as well as for advancing scientific research

Keywords: privacy; non-interference in private life; German Federal Constitutional Court; Law of Ukraine "On Personal Data Protection"; artificial intelligence; personal data processing

Introduction

Discussing issues related to safeguarding individual privacy and family life have become more relevant than ever, when the collection and processing of information that allows an individual to be identified has become widespread. In the era of artificial intelligence, this situation raises serious concerns about the effectiveness of protecting personal data. To address legal issues concerning personal data – specifically the conditions under which private companies and public authorities can process it – it is important to understand why personal data is considered a distinct object of legal protection. One of the most authoritative concepts justifying the protection of personal rights, particularly in continental Europe, is informational self-determination, which this article focuses on. This idea was introduced by a landmark decision of the German Federal Constitutional Court and subsequently developed in legal doctrine.

Even more than 25 years after the decision, informational self-determination remains a topic of interest for scholars. A. Vivarelli (2020) characterised the current situation as a "crisis of information self-determination". It was explained that this crisis had emerged due to new risks for the protection of personal data, which, in turn, affected legislative rules, primarily

Suggested Citation:
Hachkevych, A. (2026). The idea of informational self-determination and personal data protection in Ukrainian law. *Philosophy, Economics and Law Review*, 6(1), 29-39. doi: 10.63341/2786-491X-2026-1-29.

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General Data Protection Regulation (GDPR). The article examined the issue of consent for data processing – as people increasingly expect to receive detailed information about how their data will be used, the challenge of obtaining truly free and informed consent becomes more difficult. The author also investigated such phenomena as the privacy paradox, datafication, profiling and big data analytics. F. Thouvenin (2021) explored whether the idea of informational self-determination could be considered as a basis for justifying the protection of personal data. The article stated that the distinction between data controllers – public authorities and private companies – has significant implications for the legal framework governing the processing of personal data. If governments cannot compel individuals to provide personal information and public authorities are unable to process it without individuals' consent, then a different justification should be developed for private companies that would substantiate an individual's entitlement to control the activities of others. M. Gharib (2022) explained that consent for the processing of personal data had largely become automatic, as individuals often gave consent without realising the implications. At the same time, the author proposed the idea of informed consent, which stemmed from the concept of informational self-determination. L. Vardanyan *et al*. (2024) assigned a decisive role to informational self-determination in ensuring digital identity. The right to informational self-determination was considered as a mechanism that not only facilitated personal data management but also reflected an individual's identity in a digital context. N. Flayyih *et al*. (2025) highlighted the emergence of the right to informational self-determination as a right that enables individuals to control the collection, use, and dissemination of their personal data. The article argued that this right was not merely an extended interpretation of the right to privacy, but rather a way to express individual sovereignty in the digital space. In Ukrainian legal scholarship, the concept of informational self-determination has not been thoroughly researched yet, though scholars occasionally refer to it (Manzhosova, 2022; Radanovych, 2023; Manko & Tskhovrebov, 2025). This could indicate that the meaning of this concept is self-evident. However, such apparent simplicity becomes less evident in deeper consideration. There are even mentions of this concept in discussions about the right to be forgotten (Bielova *et al*., 2024; Firman, 2025).

The aim of this article was to examine current legal frameworks for the relations regarding personal data protection in Ukraine, focusing on why and how individuals could control the collection and processing of their personal information. The primary objective of this study was to explore the idea of informational self-determination as elaborated by the previously mentioned decision by the Federal Constitutional Court of Germany (Bundesverfassungsgericht Decision…, 1983). Next, informational self-determination was discussed in its further theoretical developments, searching for the explanation why personal data deserved legal protection as a subject of unique legal status. Various understandings of informational self-determination concept were identified as stemming from the idea articulated in the 1983 decision. The subsequent phase was dedicated to the legal research of Ukrainian legislation concerning data protection.

Materials and Methods

The main research methods were analysis and synthesis – to examine the provisions of the 1983 decision by the German Federal Constitutional Court, structural and logical generalisation – to assess the scope of the implementation of the idea of informational self-determination after it was originally suggested, formal legal method – to determine the legal frameworks for personal data protection in Ukraine, comparative law method – to evaluate the institution of personal data protection with respect to other legal concepts. The general methodology of legal research was used to demonstrate how the concept of informational self-determination is reflected in Ukrainian law, focusing on the legal frameworks for the protection of personal data. This methodology involved both a doctrinal study to select the primary legal sources based on published research (Obukhovska, 2014; Bem & Horodyskyi, 2021; Lehka, 2021; Yavor *et al*., 2023) and a normative approach to identify and analyse the most relevant provisions of these sources.

In constructing graphic material, the criterion of legal authority was utilised explaining how various normative legal acts as sources of law relate to each other in their impact on social relations. The hierarchy of normative legal acts is typical of Ukrainian legal scholarship, holding that the lower a source is in the hierarchy, the more subordinate it is to other legal acts (Kosovych, 2011). The research materials include Article 32 of the Constitution of Ukraine (1996) as the supreme law, which defines the fundamental principle of respect for privacy , the Preamble and Article 1 of the Council of Europe's Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data (2018), which is part of national legislation and occupies a very high place in the national hierarchy, and the Law of Ukraine No. 2297-VI (2010) as special for the field of personal data protection, in particular Article 2 – understanding the concept of personal data, Article 4 – distinguishing between data owners and managers, Article 6 – defining the principles of data processing, Article 8 – ensuring the fundamental rights of data subjects. These principles and rights are the primary mechanisms for monitoring compliance with the fundamental principle of respect for privacy. Among other important legal provisions are Article 21 of the Law of Ukraine No. 2657-XII (1992) and Article 10 of the Law of Ukraine No. 2939-VI (2011). The materials of the study also contain the Order of the Verkhovna Rada of Ukraine's Commissioner for Human Rights No. 1/02-14 (2018), which, as the example of subsidiary legislation, also affects the relations in the field of personal data protection. The study employed the positivist approach to understanding law that prevails in the Ukrainian legal system. It views law as written rules, the binding nature of which is agreed upon by public authorities.

Results

Why could the German census of population impede exercising control over personal data

The idea of informational self-determination originates from the 1983 decision (Bundesverfassungsgericht Decision…, 1983) by the German Federal Constitutional Court on the legality of the amended Population Census Act (Volkszahlungsurteil). The public expressed concerns that the data collected during the census could be used for unknown purposes, in particular for surveillance. As a result, many believed it would be better to refuse participation in the census and boycott it altogether, thereby preventing any unjust interference in their private life. The Court evaluated the legality of this law and, in its assessment, concluded that it was entirely reasonable for individuals to have a legally supported ability to control when and how information about one's private life should be disclosed to others (Hornung & Schnabel, 2008; Rouvroy & Poullet, 2009).

It is important to highlight a key aspect of the Court's decision. The decision referred to the articles of the German Constitution (Bundesverfassungsgericht Decision…, 1983) that addressed the inviolability of human dignity (Article 1) and the right to freely develop one's personality (Article 2). Consequently, the foundation of the idea of informational self-determination was recognised as derivative from a general personal right. The notion of a general personal right concerns the existence of a separate, personality non-property right. It became known to German legal science primarily through the works of Gareis, Gierke, and Kohler. This right was founded on the recognition of both the physical and spiritual-moral dimensions of a person's integrity, with each aspect deserving legal protection. Accordingly, this general personal right manifests itself in specific rights such as physical integrity, freedom, and dignity (Eberle, 1997; Neethling, 2005; Resta, 2014). Paragraph 144 indicates that it is this general personal right that empowers a person to decide independently whether to disclose certain aspects of their personal life and to what extent. Therefore, the well-accepted interconnection between the protection of personal data and the right to non-interference in personal life (inviolability) was highlighted.

A significant prerequisite for introducing the idea of informational self-determination was a shift in the traditions surrounding personal data processing, as noted by the Court in para. 145. This shift occurred because computerised processing was increasingly replacing or supplementing manual processing. Therefore, personal information could be stored indefinitely and accessed instantly. The era of artificial intelligence has already impacted data processing even more due to a decrease of transparency, the potential for unexpected and unpredictable results, and the possibility of automated information gathering from social networks. Therefore, in 1983 individuals increasingly lack sufficient control over data accuracy and its usage, and of the 2020s – this lack has aggravated. In para. 146, the Court used another term, "individual self-determination", and described it as the freedom for individuals to decide whether to take certain actions or refrain from doing so, and then to act in accordance with those decisions. Thus, it was quite reasonable to assert that the likelihood of an individual's personal data being processed determined the extent to which they could express themselves and participate in social activities. This, in turn, affected the development of a free and democratic society, where individuals did not fear that "non-conformist behaviour" would lead to negative consequences because of their identification based on personal data (para. 146).

At the same time, the Court did not acknowledge absolute and unlimited control over personal data, mentioning overriding public interests. This highlighted the necessity of balancing public and private interests (para. 148). The decision emphasised the importance of defining the boundaries of permissible interference when the state required individuals to provide personal data: which types of information could be collected and used (that is related to the concept of personal data); for what purposes the data might have been used (grounds and methods of processing); how the available technical capabilities for utilising personal data were impacting personal data as a subject of unique legal status (para. 150). The decision demonstrated that various legal regimes might be implemented to protect personal data, in particular for personal information that had not been anonymised, as well as for statistical processing (para. 151). The Court also suggested there was a need to improve the institutional framework by establishing an independent public authority (data protection officer) to oversee compliance with the right to informational self-determination and put into effect preventive legal protection measures (para. 155). Additionally, the significance of ensuring data security and avoiding unauthorised external access was outlined (para. 161) (Bundesverfassungsgericht Decision…, 1983). Over time, this problem has also become increasingly threatening, as more and more valuable personal data is converted to electronic form and stored in appropriate digital repositories. Despite the formal prohibition in criminal codes, de facto cybercrime remains a serious risk to the information security of individuals, private companies, and governments.

Informational self-determination in the XXI century: Idea, conception, right or principle

Based on the analysis of existing research, two crucial roles of informational self-determination should be observed – positive and negative. The concept of informational self-determination is used to positively describe other ideas (Fischer-Hübner *et al*., 2011; Thouvenin, 2021), justifying what exists or should exist as part of the law (primarily, the protection of personal data). Informational self-determination is also considered a distinct concept, separate from other legal concepts. It is exploited to negatively explain what specifics other concepts, such as property rights, do not encompass. The coverage of the idea in scientific literature, as well as its interpretation, is quite broad and ambiguous. It is unlikely that all scholars using the term "informational self-determination" share the same understanding that was established in the Court's decision. This allowed to conclude that the idea itself had evolved further and was connected to the term "informational self-determination" as used in research, the meaning of which was somehow related to control over personal data. However, there are strong doubts about whether a widely accepted conception of informational self-determination has been established (comparing to the idea or the concept – of individual's control over personal data, the conception is a more structured, precise, well-developed notion that encompasses a system of related ideas and concepts).

Explanations of informational self-determination include those that relate to its understanding as the concept: an individual's capability to identify without coercion which information about them is available and accessible (Buitelaar, 2017); both a right and an opportunity of an individual to determine which information about them is disclosed to others and for what purposes it may be used (Thouvenin, 2021); explanations related to the right: individuals' authority of controlling and managing their personal data in the context of digital processing that result from a contractual or legal relationship (Flayihh *et al*., 2025); individual's right to control information from their privacy deciding what facts about them surroundings will get known, who owns them and how they can be used (Erdosova, 2019). One more understanding involves considering informational self-determination as the principle (Fischer-Hübner *et al*., 2011; Magrani & Rodrigo de Miranda, 2024). A. Galetta *et al*. (2017) suggested that this principle referred to the idea that the freedom of individuals was jeopardised when they were unaware of what was known about them and which data was being processed.

The idea of informational self-determination, as articulated by the German Federal Constitutional Court (Bundesverfassungsgericht Decision..., 1983), was stated as arising from personal rights – inherently non-economic and inseparable from an individual. These rights were not treated as commodities that private companies might want to buy or sell; they were not considered objects of commerce. Personal information in the context of this decision should be discussed in relation to the right to free development and respect for dignity. The Constitution of Ukraine (1996) highlights the right to free development of one's personality in Article 23 and respect for one's dignity in Article 28. Additionally, the concept being studied is similar to the idea of privacy, which was primarily understood in American legal scholarship. "Privacy" means that any use of personal information should occur in an appropriate manner, with an individual playing a central role in the process. An authoritative explanation was provided as follows: "Privacy is the claim of individuals, groups or institutions to determine for themselves when, how, and to what extent information about them is communicated to others" (Westin, 1967). In the Ukrainian legal system, the closest equivalent to the right to privacy is the right to non-interference in private life – the latter is also sometimes called "right to privacy" (Pankevych, 2017). Article 32 outlines the inviolability of personal and family life (Constitution of Ukraine, 1996).

Along with the studies of the concept itself or those that use the idea of informational self-determination to explain other issues, some scholars confidently employed the term "right to informational self-determination". For example, S. Faraoni (2023) distinguished two components in the right to informational self-determination: the right of an individual to receive information about intrusions into their privacy and the right to decide when and how personal information (including their thoughts) can be shared. The author also confirmed its recognition at the official level by examples of the Council of Europe's documents. P. Schwartz (1989), when discussing the right to informational self-determination within the German legal system, referred to the protection of individuals from the unrestricted collection, storage, use, and transfer of their personal data, which was essential for safeguarding personal autonomy and ensuring the ability to self-govern. In no case does this right grant complete control or ownership rights over personal information. For comparison, in one of the latest studies, a group of authors (Flayyih *et al*., 2025) described the right to informational self-determination as a fundamental human right to the protection of personal data and, explaining its content, analysed the key rights of data subjects. A. Rouvroy & Y. Poullet (2009) characterised the right to informational self-determination as a foundational principle that justified data protection regimes.

What are the current legal frameworks for personal data protection in Ukraine

Based on the positivist approach to law, the legal system of Ukraine acknowledges only those rights which are grounded in provisions of national legislation including international treaties. The primary legal acts of national legislation that govern personal data protection following the principle of the hierarchy of legal authority are shown in Figure 1. In addition to personal data, Ukrainian law also recognises the concept of confidential information as a subject of unique legal status, which was explained in the Law of Ukraine No. 2657-XII (1992) and encompassed different types of data. In the official interpretation, the Constitutional Court of Ukraine stated that information regarding an individual's personal and family life should be considered confidential. This includes any information and/or data about non-property and property relations, circumstances, events, relationships, and other relevant details related to a person and their family members. The only exceptions are for information required by law that pertains to individuals holding positions associated with the performance of state or local government functions or other official duties. The collection, storage, use and dissemination of a person's confidential information without their consent by state or local government bodies, legal entities, or individuals constitutes an interference in their personal and family life. Such interference is allowed only in cases specified by law and solely in the interests of national security, economic well-being and human rights (Decision of the Constitutional Court of Ukraine No. 1-9/2012, 2012).

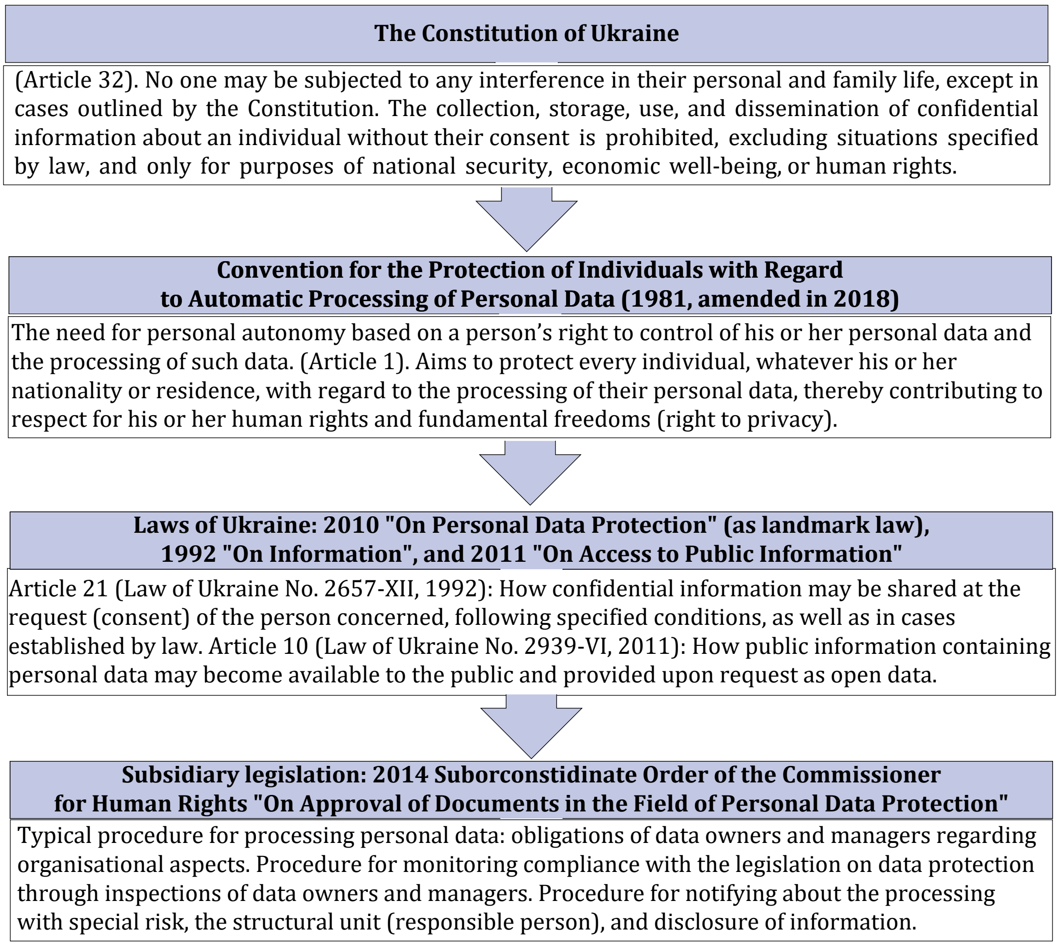

Figure 1. Primary legal acts for personal data protection in Ukraine

Source: created by the author based on Law of Ukraine No. 2657-XII (1992), The Constitution of Ukraine (1996), Law of Ukraine No. 2297-VI (2010), Law of Ukraine No. 2939-VI (2011), Order of the Verkhovna Rada of Ukraine's Commissioner for Human Rights No. 1/02-14 (2018), Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data (108+) (2018)

The features of personal data protection in Ukraine, which align with the concept of informational self-determination, can be summarised under the framework of the Law of Ukraine No. 2297-VI (2010). The protection of personal data is grounded in the right to non-interference in one's personal life and is approximated to confidential information safeguarding. The rules established by this law apply to both public authorities and private companies. In this context, the terms "data owners" and "data managers" refer to those responsible for fulfilling its provisions. The notion of personal data processing covers a wide range of activities, from collection to destruction. General requirements include important principles such as openness and transparency in processing, accuracy and reliability of data, proportionality in the purpose of processing, and a prohibition on processing confidential information unless in exceptional circumstances.

Furthermore, as another primary mechanism for monitoring compliance with the fundamental principle of respect for privacy, the Law of Ukraine No. 2297-VI (2010) determined the fundamental rights of data subjects. Individuals have the right to know the sources and purposes of their personal data collection and processing, as well as information about data owners and data managers, receive information about access conditions and third-party transfers, and access their personal data. They should obtain a response regarding the processing of their data within thirty days, including its content, and can submit objections to the processing or request changes or destruction of their data if processed unlawfully or inaccurately. They are entitled to protection against unlawful processing and loss of their personal data, file complaints with the Verkhovna Rada of Ukraine's Commissioner for Human Rights or court regarding its processing, seek legal remedies for violations of data protection laws, make reservations concerning the restriction of their consent to data processing, be aware of mechanisms related to automatic processing of personal data, and reject the automated decision-making legally impacting them.

There is no independent body specifically responsible for supervising the protection of personal data in Ukraine. This role has been delegated to the Verkhovna Rada of Ukraine's Commissioner for Human Rights. Until 2014, Ukraine had a dedicated agency, the State Service of Ukraine for Personal Data Protection, to handle these matters (Bem & Horodyskyi, 2021). The processing of "sensitive" personal data is prohibited unless in exceptional circumstances. Ukrainian legislation improvements have been ongoing since 2012 and still continue. Discussions are underway regarding a new version of the law on personal data protection that will both correspond better to the General Data Protection Regulation (Holovatskiy, 2024) and take into account amendments to Convention 10 of the Council of Europe. primary mechanisms for monitoring compliance with the fundamental principle of respect for privacy.

By analysing the current legal frameworks for personal data protection in Ukraine in light of the concept of informational self-determination, several important considerations can be presented. The connection between the institution of personal data protection and the right to non-interference in one's personal life in the Ukrainian legal system differs from the original idea of protecting the so-called general rights of the individual, embodied in the rights to respect for dignity and free development. However, this approach is consistent with the legal traditions of the Council of Europe and the European Union, and also resonates with the idea of privacy that was primarily understood in American legal scholarship. Moreover, the examination of the 1983 Court's decision may lead to a statement that the protection of personal data is related to other rights guaranteed by the Constitution of Ukraine, including the right to information, freedom of demonstration and assembly, etc.

In Ukrainian law, control over an individual's personal data is based on the principle that the data subject can influence how both public authorities and private companies access and process their information. This is primarily exercised through the rights of data subjects, while an individual's consent remains the predominant form of control over personal data. However, this control is not absolute. In addition to other grounds for processing as stated in Article 11, Article 14 specifies that the dissemination of personal data without the consent of the data subject or their authorised representative is permitted only in cases defined by law. Such cases may pertain to national security, economic welfare, human rights, or the conduct of the All-Ukrainian Population Census as necessary (Law of Ukraine No. 2297-VI, 2010). Ukrainian law has not yet established an independent supervisory authority to monitor compliance with personal data protection legislation. Meanwhile, the Verkhovna Rada of Ukraine's Commissioner for Human Rights is actively engaged in this field (Order of the Verkhovna Rada of Ukraine's Commissioner for Human Rights No. 1/02-14, 2018). In the past, the Commissioner appointed a separate representative for personal data protection (Ozel, 2020). At the present, however, among his representatives, there is one who specifically addresses information rights (Ombudsman of Ukraine, 2025).

The conditions of the ongoing war have made the protection of personal data in Ukraine more complex. Alongside this, Ukraine faces challenges, which are not only relevant to Ukraine but also to many other countries. Among these challenges, subjective and objective issues can be distinguished. Subjective issues include a lack of public awareness regarding personal data and the fundamental principles of its legal protection. People often provide unaware and rather automatic consent for the processing of their personal information, and there is a careless exchange of various types of information on the Internet. Objective issues involve the opacity of data processing methods, the unscrupulous use of personal information by private companies, and unauthorised interference in information systems, which can lead to data leaks. Unfortunately, during the years of war, the personal data of Ukrainians has frequently been exposed to unauthorised access and theft (Poirier, 2024). The German Court's decision also pointed out that technological developments and computerisation strongly affected data processing. This statement is now seen as highly relevant in Ukraine's legal system, 40 years later. As Ukraine is recognised for its innovations in e-government including Diia (abbreviation from "State and me" in Ukrainian) and several other digital services that access personal data (Tymchenko, 2022), to prevent in the XXI century eventual personal data violations about which the 1983 decision warned, measures aimed at data security of Ukrainians should be strengthen.

Discussion

This study examined the application of the concept of informational self-determination to justify individual rights regarding personal data within the Ukrainian legal system. This is the first study of its kind in Ukrainian academia and contributes to the idea of informational self-determination, proposed by the German Federal Constitutional Court when examining the legality of conducting a census and developed at the doctrinal level. The article defined informational self-determination as an individual's control over the collection, storage, and use of personal information. It raised the issue of balancing the scope of such control with the need for processing data by public authorities in public interests. An analysis of the 1983 decision demonstrated that the legal institution of personal data protection had much deeper roots than in the principle of respect for private and family life. In addition to the connection of informational self-determination with the ideas of privacy and self-development, as well as fundamental democratic values of human dignity, as elaborated by A. Rouvroy & Y. Poullet (2009), findings discovered in the current study also highlighted that the former originally derived from the general personal right known in German legal science.

When asked what information self-determination is – an idea, a concept, a right, or a principle – the answer should be summarised from the state of research, which traces its origins to the suggestion for individuals' expected control over their personal data. It became a widely used concept in foreign research, without becoming a single conception due to different interpretations and applications. The results section outlines various approaches to understanding informational self-determination, emphasising the existing diversity. Among the examples of applications, the following works can be mentioned. J.C. Buitelaar (2017) applied the concept of informational self-determination to personal data of deceased individuals, addressing the issue of post-mortem privacy. On the one hand, a deceased person cannot exercise control over their personal information or assert human autonomy. On the other hand, in an age when modern technology allows individuals' digital presence to persist, this debate must shift from an ethical-moral framework to a legal one, similar to discussions of personal rights. In a separate article, this author also examined the protection of children's personal data through the lens of informational self-determination (Buitelaar, 2018). In this concept, C. Kodde (2016) found the rationale of a right to be forgotten, which allows individuals to request the deletion of certain personal data. Analysing the legal frameworks in Germany, the author applied both informational self-determination considered as a right and the freedom of expression to explain in legal terms why individuals could control the accessibility of personal information via the Internet. Although this author and other authors (Schwartz, 1989; Faraoni, 2023; Flayyih *et al*., 2025) even perceived informational self-determination as a separate right, according to the positivist approach, rights are primarily enforced at the level of national legislation. Therefore, informational self-determination is more of a doctrinal asset than a legislative rule – it is premature to call it a right in some legal systems (e.g., Ukrainian one). A more acceptable position is to classify it as a principle (Fischer-Hübner *et al*., 2011; Stamatellos, 2011), which in its meaning reflects the existence of an individual's informational autonomy. Ultimately, it might be also described as both a right and a principle (Voigtmann *et al*., 2010).

The concept of informational self-determination can be a useful tool for studying law application practice of Ukrainian courts, especially those at the highest levels of the national judicial system. This concept can be the basis for examining among others the decision of the Supreme Court of Ukraine Decision No. 806/3265/17 (2018). G. Hornung & C. Schnabel (2008; 2009) demonstrated how informational self-determination might serve as a framework for examining more recent decisions from the German Federal Constitutional Court that were directly relevant to maintaining control of personal data – specifically, online searches for computers (surveillance), automatic number plate recognition, and the matter of data retention. The legal frameworks for personal data protection in Ukraine, as presented earlier regarding judicial force, reflect the implementation of the concept of informational self-determination in national legislation. These frameworks share common features with those in other European countries due to the adoption of international standards, particularly those established by the 1981 Council of Europe's Convention (Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data, 2018). Furthermore, the organisation of legal sources into a hierarchy – comprising the Constitution of Ukraine, which outlines fundamental rights, specific laws related to the field, and acts of subsidiary legislation-indicates that the processes concerning the collection, storage, and use of personal data are governed by relevant obligations assigned to database owners and managers due to the fulfillment of the principle of respect for individual's privacy.

In addition to the legal acts mentioned earlier, personal data protection is also supported by several criminal law provisions that criminalise identity theft and other offenses related to personal data. There are three relevant articles in the Criminal Code of Ukraine No. 2341-III (2001) – Article 163, which addresses violations of the secrecy of writing, telephone conversations, telegraph communications, and other correspondence transmitted through communication means or computer systems, Article 182, which pertains to the violation of private life, and Article 361, which concerns unauthorised interference in the operation of computers, automated systems, computer networks, or telecommunications networks, particularly in cases where personal data breaches result from hacking. The Code of Ukraine "On Administrative Offenses" (1984) imposes administrative penalties for illegal processing of personal data (Article 188-39). The amount of the fines associated with violations of personal data protection rules varies depending on whether the offender is an individual, a public official, or a business. The concept of informational self-determination might be helpful for clarifying the determination of legal responsibility in both criminal and administrative law as well as for classifying relevant offenses.

Priorities for the development of Ukrainian legislation on personal data protection are primarily determined by the need to harmonise national law with the EU acquis communautaire, in particular the General Data Protection Regulation (Regulation (EU) 2016/679, 2016). The adaptation of the legal frameworks of Ukraine to EU requirements should include organisational and institutional changes, such as the foundation of an independent body to oversee compliance with personal data legislation, ensuring key safeguarding mechanisms law involving processing principles and data subject rights (as defined in articles 5, 12-22 of the GDPR), the establishment of various legal regimes for protection – in the activities of public authorities, solely for law enforcement purposes, for a business, etc. Ukrainian legislation regarding personal data protection needs to be enhanced – it is not a matter of just amending the Law of Ukraine No. 2297-VI (2010), it is a matter of enacting a new version of the law for the field of personal data protection.

Conclusions

The idea of information self-determination is interconnected with the notion of general personal right, the right to privacy, and the concept of confidential information. On the one hand, an individual's control over personal data should not be absolute – assuming its important role of a prerequisite for the development of the democratic society and the preservation of personal autonomy. On the other hand, the introduction of informational self-determination to explain relevant provisions in law and the various interpretations from its proponents raise doubts about the concept's clarity and consistency. However, informational self-determination contributes to a theoretical foundation for the existence of the legal institution of personal data protection. In the Ukrainian legal system, the protection of personal data is rooted in the fundamental human right to privacy and is encompassed by safeguarding confidential information. A specific law outlines the essential guarantees for protection – the principles of data processing and rights of data subjects. It also establishes the obligations of personal data owners and managers. Acts of subsidiary legislation provide guidance on how to effectively comply with these obligations in practice. Application of data protection legal acts plays an important role in the process of ensuring and safeguarding the effective enjoyment of human rights related to the maintaining the control over personal data. However, there is no independent body dedicated to this purpose, and the existing legislation requires improvements to be aligned with the EU acquis communaitaire. The concept of informational self-determination is valuable for Ukrainian legal scholarship, given that it is one of the well-known theoretical foundations for personal data protection in global jurisprudence. Further research in this field should involve the commercial aspects of individuals' rights to their personal data, the improving of personal data control when it is processed by modern technologies, and a more detailed criminalisation of personal data breaches.

Acknowledgements

None.

Funding

None.

Conflict of Interest

None.

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Ідея інформаційного самовизначення та захист персональних даних у праві України

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Анотація. Сфера захисту персональних даних набуває все більшого значення в умовах, коли обробка відомостей, за якими може бути ідентифікована особа, стала звичним явищем. Для такої обробки характерний високий рівень автоматизованості, що актуалізує питання про те, наскільки ефективною є охорона персональних даних в епоху штучного інтелекту, відповідь на яке залежить серед іншого від розуміння першопричини особливого статусу персональних даних. Мета статті полягала в тому, щоб у світлі ідеї інформаційного самовизначення розглянути наявний стан правового регулювання відносин у сфері захисту персональних даних в Україні та з'ясувати втілені у ньому особливості здійснення контролю фізичною особою над персональною інформацією. Для досягнення цієї мети використано наступні методи дослідження: аналізу та синтезу, логічне-структурного узагальнення, а також формально-правовий. Визначено, що ідея інформаційного самовизначення пов'язана з обґрунтуванням права особи самостійно приймати рішення з приводу того, чи та яким чином буде доступною для обробки інформація про неї. Проаналізовано, що інформаційне самовизначення, узасаднюючи вимогу невтручання у особисте та сімейне життя, близьке за значенням до приватності як ідеї, та є однією з теоретичних моделей для пояснення природи прав щодо персональних даних. Встановлено, що хоча витоки ідеї інформаційного самовизначення сягають 1983 р., вона досі отримує істотне теоретичне підкріплення для вивчення проблематики захисту даних. Обґрунтовано необхідність вдосконалення законодавства України про захист персональних даних в умовах, коли громадяни України опиняються у ситуаціях, в яких здійснення ними контролю над персональною інформацією стає все складнішим. Результати мають значення для правотворчої та правозастосувальної діяльності у сфері захисту персональних даних, а також – подальших наукових досліджень

Ключові слова: приватність; невтручання у приватне життя; федеральний конституційний суд Німеччини; закон України «Про захист персональних даних»; штучний інтелект; обробка персональних даних

ISSN 2786-491X, e-ISSN 3083-7472

Philosophy, Economics and Law Review

Vol. 6. No. 1. 2026
Received: 17.11.2025
Revised: 27.03.2026
Accepted: 30.04.2026
Published: 29.05.2026

Journal homepage: https://phelr.com.ua/en

UDC 504.054

DOI: 10.63341/2786-491X-2026-1-40

Legislative approaches to the management of polymer waste from electronic equipment: International and national dimension

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Abstract. The relevance of the study is determined by the rapid growth of waste electrical and electronic equipment worldwide, which is projected to exceed 74 million tons by 2030, and the particular complexity of recycling the polymer fraction containing hazardous flame retardant additives. The aim of this work was to conduct a comprehensive analysis of legislative approaches to the management of polymer waste from electronic equipment at the international and national levels and the development of practical recommendations for their implementation in Ukraine. The methodological basis of the study was a combination of comparative legal and systemic-structural analyses, which made it possible to compare legislative approaches of six countries and regions. It has been established that the principle of extended producer responsibility is the dominant regulatory model in the world, successfully implemented in the EU, USA, China, Australia, and Brazil. The contradiction between the goals of polymer recycling and restrictions on the content of hazardous substances, in particular brominated flame retardants, in EU legislation has been analysed. It was found that only 0.4 out of 2.6 million tons of polymers from e-waste generated annually in Europe are sent for recycling. Practical recommendations have been developed for the implementation of Draft Law No. 2350 in Ukraine, taking into account the experience of other countries. The results of the study can be used by government authorities in the formation of national e-waste management policy, as well as by scientists for further research in the field of environmental law and circular economy. Furthermore, the main regulatory barriers to effective polymer fraction recycling have been identified, related to legislative restrictions on hazardous additive content in secondary raw materials and the absence of specific regulations for polymer materials in most national legislations. The practical value of the study lies in the potential use of the formulated recommendations by government authorities in developing secondary legislation for Draft Law No. 2557-IX and by enterprises in organising e-waste collection and recycling systems

Keywords: waste electrical and electronic equipment; environmental safety; regulatory framework; extended producer responsibility; circular economy; implementation in Ukraine

Introduction

The problem of waste electrical and electronic equipment (WEEE) disposal is one of the most pressing global environmental challenges of today, necessitating the development of effective legislative mechanisms. The growth of WEEE volumes is exponential, which is a direct consequence of technological progress, industrialisation, and urbanisation. The total volume of e-waste is projected to exceed 74 million tonnes by 2030. The

Suggested Citation:
Grechanyuk, E., & Ishchenko, V. (2026). Legislative approaches to the management of polymer waste from electronic equipment: International and national dimension. *Philosophy, Economics and Law Review*, 6(1), 40-48. doi: 10.63341/2786-491X-2026-1-40.

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key component of WEEE is the polymer fraction, which makes up approximately 25-30% of their weight and contains not only hard-to-decompose plastic, but also dangerous flame retardant oxides and other additives. Legislative initiatives in this area are aimed not only at eliminating environmental hazards, but also at promoting a circular economy by attracting secondary raw materials to production processes.

The issues of managing WEEE and polymer waste electronics are actively studied by the world scientific community. C. Chaine *et al*. (2022) in their paper on plastic recycling with WEEE found that approximately 2.6 million tonnes of polymer waste from electronic equipment are generated annually in Europe, but only 0.4 million tonnes go to processing enterprises. The researchers concluded that the main reasons for low processing rates are a mixture of different polymers and the presence of toxic additives, in particular brominated flame retardants.

The Organisation for Economic Cooperation and Development OECD (2024) has systematised the key principles of the extended producer responsibility policy. According to this publication, extended producer responsibility (EPR) is the most effective approach to e-waste management, as it imposes responsibility on manufacturers for the entire product lifecycle. The study highlighted the importance of adapting EPR systems to the local conditions of each country. M. Compagnoni (2022), in a systematic review of the literature on evaluating the effectiveness of the extended producer responsibility principle for e-waste, concluded that despite the widespread introduction of EPR in the world, the results of its application vary significantly depending on the country and implementation mechanisms.

M.K. Portugaise *et al*. (2023) conducted a comparative analysis of EPR systems in Japan and Canada. The researchers found significant differences between producers' physical liability (Japan) and financial liability (Canada). According to the researchers, physical responsibility encourages manufacturers to change product design to simplify further processing, while financial responsibility focuses companies mainly on cost savings. Chinese researchers K. Li *et al*. (2023) in a publication on the modernisation of recycling through EPR mechanisms, analysed four phases of the development of the recycling system in China after the introduction of the subsidy scheme in 2012. On the example of GEM Co. Ltd., the researchers demonstrated a successful closed-loop model of WEEE recycling with an increase in the added value of dismantled materials through technological innovations.

D. Faibil *et al*. (2023) examined the factors of implementation of WEEE in developing countries, using the example of Ghana. Using the DEMATEL method, the researchers found that operational factors have a greater impact on the implementation of EPR than strategic ones. According to their findings, the extended deposit refund scheme is the most effective mechanism for encouraging electronics retailers to participate in the EPR system. Ukrainian researchers O. Yefremova *et al*. (2022) analysed the current state of polymer waste management in Ukraine. They stressed that recycled polymers can find new applications in various industries, especially in the light industry for the manufacture of shoe soles or fabrics with improved properties. N.W.M. Wong (2018) conducted a comparative analysis of e-waste management in Hong Kong and mainland China under the "one country, two systems" principle. The researcher found that despite different administrative approaches, both regions are moving towards harmonisation of EPR systems, although they face different implementation challenges. I. Ilankoon *et al*. (2018) in a comprehensive review of the international context of e-waste management systematised information on trade flows, regulatory mechanisms, environmental threats, and technologies for the recovery of valuable materials, emphasising the need to harmonise legislative approaches at the global level.

Despite significant scientific achievements in the field of WEEE management, the issues of legislative regulation of the polymer fraction of electronic waste remain rather neglected, especially in the context of contradictions between the goals of processing and restrictions on the content of hazardous substances. In addition, the issue of implementing European directives in Ukrainian legislation requires a detailed analysis, considering the specifics of the national waste management system. The purpose of the study was to comprehensively analyse and evaluate legislative approaches to the management of polymer waste of electronic equipment at the international and national levels. The main task was to identify the most effective models of legal regulation and develop practical recommendations for their implementation in Ukraine.

Materials and Methods

The study was based on a combination of several complementary methods of scientific cognition, which provides a comprehensive approach to the analysis of legislative mechanisms for managing polymer waste of electronic equipment. The comparative legal method was used to compare the legislative approaches of six countries and regions: the European Union, the United States of America, China, Australia, Brazil, and Ukraine. The comparison criteria were selected: the type of regulatory system (EPR, advanced processing fee, reverse logistics), the availability of specific standards for polymer materials, targets for collection and processing, mechanisms for financing the waste management system, and the state of implementation and efficiency of implementation. The system and structural analysis allowed considering the regulatory framework as a single system of interrelated elements, including international directives, national laws, and strategic documents.

This method has identified internal contradictions in EU legislation, in particular, the conflict between the WEEE and RoHS directives on the processing of polymers containing brominated flame retardants.

The method of analysing regulatory compatibility was used to substantiate the identified legal conflicts between the EU's environmental goals. In particular, the conflict between the desire for maximum processing of polymers and the establishment of strict limits on the content of hazardous substances (10 parts per million for decaBDE) was analysed, which actually makes it impossible to process a significant part of WEEE plastic waste. The selection of directives and scientific publications was carried out according to the following criteria: relevance (mainly 2019-2024 years of publication), topicality, representativeness of different regions of the world, availability of empirical data on the effectiveness of legislative mechanisms. Special attention was paid to publications that analyse the specifics of the WEEE polymer fraction and the problems of its processing. The material base of the study consisted of official texts of international directives, in particular Directive 2011/65/EU (2011), Directive 2012/19/EU (2012), and Directive (EU) No. 2024/884 (2024). National legislation was also analysed: Draft Law No. 2557-IX (2019), Law of Ukraine No. 2320-IX (2025), legislation of individual US states, regulations of China (Wong, 2018), Australia (Shooshtarian *et al.*, 2021), and Brazil (Souza, 2023). Additional sources were reports from international organisations (Baldé *et al.*, 2024), Eurostat statistics (2025), and scientific publications in specialised journals.

The logic of the study provided for the consistent implementation of such stages: collection and systematisation of the regulatory framework, comparative analysis of legislative approaches of different countries, identification of best practices and problematic aspects, formulation of recommendations for Ukraine. The geography of the study covered the EU and individual member states (Germany, Sweden), the United States with a detailed analysis of California legislation, countries in the Asia-Pacific region (China, Japan, Australia), and Latin America (Brazil). Such a wide geographical coverage was conditioned by the need to identify various regulatory models to form optimal recommendations for Ukraine. Limitations of the study were the lack of access to complete statistics on the volume of polymer processing with WEEE in all the countries under study, and the dynamic nature of legislation, which could change after the study was completed. In addition, the analysis mainly covered officially published regulations without a detailed review of their enforcement practices.

Results and Discussion

The European Union is one of the pioneers in the field of legislative regulation of WEEE. Its approach was based on two key directives that serve as the basis for the national legislation of member states. Directive No. 2012/19/EU (2012) – the directive on waste electrical and electronic equipment, first introduced in February 2003 and updated in 2012, sets out obligations for manufacturers of electrical and electronic equipment to collect and process their products after the end of their service life. The main purpose of the directive is to promote efficient use of resources, reduce the amount of electronic waste that ends up in landfills, encourage reuse and recycling. The directive covers all electrical and electronic equipment that depends on electric current or electromagnetic fields to perform its primary function, and applies to both consumer goods and professional use (Directive No. 2011/65/EU, 2011). Since 15 August 2018, the scope of the directive has been extended to all such equipment, with the exception of specially excluded categories (Directive No. 2012/19/EU, 2012).

The WEEE directive sets specific requirements for manufacturers selling products on the EU market. In particular, manufacturers are required to register with national authorities and report on the volume of equipment placed on the market. In addition, manufacturers must organise and finance the collection, processing, recycling and recovery of WEEE, provide detailed information to processing companies about the composition of products, and mark products with the "crossed-out trash can" symbol, which informs consumers about the need for proper disposal (Directive No. 2012/19/EU, 2012). Notably, the directive does not contain specific requirements for processing the polymer fraction, setting only general collection targets for all categories of WEEE.

A key element of the directive is the extended producer responsibility system, which forces manufacturers to finance the entire recycling process. This encourages companies to engage in "ecodesign", i.e., develop products that are more durable, energy efficient, and easy to disassemble and recycle. The directive sets ambitious collection targets: EU member states must collect 45 tonnes of WEEE for every 100 tonnes of goods placed on the market. Since 2019, this figure has increased to 65 tonnes, or 85% of the formed WEEE (Brady Corporation, n.d.). To achieve these goals, member states create national producer compliance schemes, to which companies pay annual fees covering collection and processing costs. Directive No. 2011/65/EU (2011) on the restriction of hazardous substances (RoHS) – the RoHS directive is an integral complement to the WEEE directive, since its main purpose is to limit the use of certain hazardous substances in the manufacture of electrical and electronic equipment. This makes the recycling process safer for the environment and human health (Brady Corporation, n.d.). The RoHS directive restricts the content of lead, mercury, cadmium, hexavalent chromium, and some brominated flame retardants, and certain phthalates. For most substances, a limit is set that does not exceed 0.1% of the weight of a homogeneous material, while for cadmium, this indicator is 0.01% (Directive No. 2011/65/EU, 2011). Compliance with RoHS requirements is a prerequisite for obtaining a CE marking confirming that the product meets EU standards.

Implementation at the national level and conflicting aspects. Implementation of the WEEE Directive No. 2012/19/EU (2012) differs significantly in different EU member states, which creates administrative challenges for international companies. However, this approach allows countries to adapt mechanisms to their conditions. For example, Germany, which introduced the e-waste act in 2005, achieved high collection and recycling rates of about 45% of equipment sold. Sweden is the leader, collecting about 60% of the WEEE generated in the country. Their success is an example of how an effective EPR system and convenient collection points for consumers can provide high performance (Ukraine will introduce new..., 2024). B. Mayanti & P. Helo (2024), in the study of the EPR system in Finland, demonstrated how reverse waste logistics contributes to the transition to a circular economy by slowing down and closing material cycles.

Despite its success, the EU's WEEE policy has internal contradictions, especially with regard to polymer waste management. This question is relevant because polymers from WEEE often contain brominated flame retardants (Paben, 2018). Although the WEEE directive requires selective treatment of plastics containing brominated flame retardants, proposed changes to EU legislation on persistent organic pollutants set a low limit on the content of one of these flame retardants (decaBDE) at 10 parts per million (Aldoori *et al.*, 2023). M.A. Charitopoulou *et al.* (2021), in their review of plastic thermochemical recycling methods with WEEE, emphasised that the presence of brominated flame retardants is a major obstacle to efficient recycling, as these additives require special removal technologies during recycling. Statements by the European Confederation of Recycling Industries and the European Electronics Recyclers Association indicate that achieving such a low concentration level is technically impossible at the industrial level. P. Hennebert & M. Filella (2018) confirmed in their study that sorting WEEE plastics by bromine content is critical for compliance with EU regulatory requirements, but existing industrial technologies do not provide sufficient accuracy for such sorting. W.A. Stubbings *et al.* (2021) in a study of the mixed plastic WEEE recycling stream in the UK found that careful management of polymer types prior to extrusion can ensure compliance with EU requirements for low levels of persistent organic pollutants, but this requires significant investment in sorting technology. This means that instead of recycling, a significant portion of WEEE plastic waste, which contains brominated flame retardants, will be sent to incineration (Aldoori *et al.*, 2023). This situation demonstrates a direct conflict between the EU's two main environmental goals: eliminating hazardous substances and promoting a circular economy.

National dimension: Ukraine's policy in the field of WEEE. The legislation of Ukraine in the field of waste management is at the stage of reform aimed at harmonisation with European standards. The fundamental act is the Law of Ukraine No. 2320-IX (2025), which defines the general legal and organisational basis for activities in this area. This law establishes a hierarchy of waste management, which includes preventing its formation, reducing volumes, promoting reuse and recycling. However, a specialised regulatory act is required to manage a specific flow of WEEE. Such an act should be the Draft Law No. 2557-IX (2019). This document is developed considering the requirements of previous directives, which indicates Ukraine's strategic course towards European integration (Ukraine will introduce new..., 2024). The key provision of the draft law is the introduction of an extended manufacturer's responsibility system, which provides that manufacturers will be responsible for the entire life cycle of their products, including their disposal. It is important to note that Draft Law No. 2557-IX mainly copies the general targets for collecting WEEE from EU Directives and does not contain specific requirements for processing the polymer fraction, which is a potential legislative gap. Comparative analysis of global legislative models. Outside the European Union, there are different approaches to the regulation of WEEE, reflecting regional characteristics and priorities. Summary data on the regulatory framework of different countries are presented in Table 1.

Table 1. Comparative matrix of the regulatory framework of Ukraine and the world in the field of WEEE

Country/Region	Main regulation	Year of adoption	Regulation model	Key features	Status
Ukraine	Draft Law No. 2557-IX	2019	EPR	Harmonisation with EU directives; introduction of EPR	Draft law included in the agenda of the Verkhovna Rada
EU	Directive 2012/19/EU (WEEE)	2012	EPR	Mandatory collection targets; financial responsibility of manufacturers; product labelling	In force, implemented in national legislation

Table 1. Continued

Country/ Region	Main regulation	Year of adoption	Regulation model	Key features	Status
USA	State legislation	since 2003	EPR and ARF	Fragmented approach; California uses ARF; most states use EPR	Current laws in 25 states and the District of Columbia
China	Administrative Measures for the Prevention and Control of Environmental Pollution by Electronic Waste; Collection and Treatment Decree on Wastes of Electric and Electronic Equipment	2007, 2011	EPR	Prohibition of solid waste imports; introduction of EPR in 2012	Current laws
Australia	National Television and Computer Recycling Scheme	2011	EPR	Funded by industry; state-level ban on electronic waste landfill (Victoria)	Current laws
Brazil	National Solid Waste Policy (PNRS)	2010	Reverse logistics	The "polluter pays" principle; the need for sectoral agreements for implementation	Current policy with sectoral agreements since 2019

Note: EPR – Extended Producer Responsibility; ARF – Advanced Recycling Fee
Source: compiled by the authors based on State E-Waste Legislation in the U.S (n.d.), Directive No. 2011/65/EU (2011; 2012), N.W.M. Wong (2018), Draft Law No. 2557-IX (2019), S. Shooshtarian *et al.* (2021), R.G. Souza (2023)

Unlike the EU, the United States does not have a single federal system for regulating e-waste. Instead, legislation is regulated at the state level, where only 25 states and the District of Columbia have relevant laws (State E-Waste Legislation in the U.S..., n.d.). This fragmented approach creates heterogeneity of regulation, which can lead to uneven standards and efficiency. There are two main models of WEEE legislation: extended manufacturer liability, which is used in 24 states, and extended ARF, first introduced in California in 2003. With the ARF model, consumers pay a fixed fee of USD 6 to USD 10 when purchasing an electronic device, and these funds are sent to a special state fund to reimburse recyclers (State E-Waste Legislation in the U.S, n.d.). Notably, US state-level legislation does not contain specific requirements for labelling plastics or restrictions on the use of individual polymer additives in WEEE.

Countries in Asia and the Pacific, which are major manufacturers and consumers of electronics, are also actively implementing legislation on WEEE. China, which has struggled with large volumes of imported waste, introduced a "National Sword" policy in 2018 and has imposed a complete ban on the import of solid waste, including metals and plastics, since 2021. In addition, in 2012, China adopted the EPR system, assigning manufacturers the responsibility for collecting and processing products (Wong, 2018). However, Chinese legislation does not contain specific rules directly related to polymer materials in electronic waste, in particular, requirements for labelling plastics or restrictions on the use of individual polymer additives. In Japan, the principle of EPR was introduced even earlier, namely from 1997 for packaging materials, and from 2001 for specific types of household appliances, which makes it one of the first leaders in the region (Kojima *et al.*, 2009). Australia has been operating a "National Television and Computer Recycling Scheme" funded by industry since 2011. This scheme provides households and small businesses with free access to collection and recycling services. At the state level, in particular in Victoria, a complete ban on the disposal of electronic waste has been introduced from 2019, which significantly tightens the requirements for the management of WEEE and encourages the transition to a circular economy (Shooshtarian *et al.*, 2021). Similar to the United States and China, Australian law does not provide for specific regulations regarding polymer additives in e-waste.

The problems of e-waste management in developing countries are systemic in nature. I.C. Nnorom & O. Osibanjo (2008), in their review of e-waste practices and legislation in these countries, identified a critical lack of effective regulatory mechanisms and infrastructure for safe recycling, leading to uncontrolled accumulation of hazardous waste. In Brazil, the largest producer of WEEE in Latin America, the main legislative act is the National Solid Waste Policy, adopted in 2010 (Souza, 2023). This policy is based on the "polluter pays" principle and the concept of reverse logistics. It assigns responsibility to manufacturers, importers, distributors, and retailers for waste collection and recycling. However, despite the adoption of the law, there was a significant gap between its provisions and practical implementation. Only in 2019, a sectoral agreement was signed between the government and the electronic industry, which allowed the structure and implementation of the reverse logistics system (The World Bank, 2013). M. Ottoni *et al*. (2020) investigated a circular approach to valorising e-waste through urban mining in Rio de Janeiro, demonstrating the potential to recover valuable materials even in a limited infrastructure environment. This highlights that in developing countries, the adoption of the law is only the first step, and the real challenges lie in interagency and intersectoral cooperation and implementation.

A comparative analysis of the legislative approaches of different countries shows that, despite regional differences, the global trend tends to assign responsibility for the life cycle of electronic products to their manufacturers. The extended producer responsibility model is dominant in the world, which indicates its recognised effectiveness as a mechanism that encourages more responsible production and promotes the transition to a circular economy. The results are consistent with the findings of the OECD (2024), which defines EPR as the most effective approach to e-waste management at the global level. However, the study revealed significant differences in the implementation of this principle in different countries, which confirms the thesis about the need to adapt EPR systems to local conditions.

Comparing the EU harmonised model, which uses directives to establish common rules but allows for variability in implementation, the US fragmented approach demonstrates the advantages and disadvantages of both systems. S.H. Leclerc & M.G. Badami (2023), in an empirical study of the role of municipalities in EPR programmes, found that the effectiveness of such programmes largely depends on the level of cooperation between local authorities and producer responsibility organisations, which is an important conclusion for the development of the Ukrainian WEEE management model. M.K. Portugaise *et al*. (2023), in their study of Japan and Canada, came to similar conclusions about the differences between the physical and financial responsibility of manufacturers. The study expanded on these findings, showing that fragmentation of regulation at the US state level creates additional administrative barriers for manufacturers operating in the national market.

Of particular importance are the results of a study on the contradiction between the goals of polymer processing and restrictions on the content of hazardous substances in EU legislation. The revealed conflict between the WEEE and RoHS directives on brominated flame retardants confirms the concerns expressed by the European confederation of the processing industry, as reported by J. Paben (2018). The study showed that this contradiction is not exclusively a technical problem, but is of fundamental importance for the entire system of circular economy in the field of electronic waste. The study by C. Chaine *et al*. (2022) found that only 0.4 of the 2.6 million tonnes of polymer waste from electronic equipment in Europe goes for recycling. The analysis allowed explaining these low statistics not only for technical reasons related to the heterogeneity of polymers and the presence of toxic additives, but also for regulatory barriers, in particular, too strict limits on the content of hazardous substances in secondary raw materials. This is an important addition to the existing scientific discourse, which emphasises the need for a comprehensive approach to solving the problem.

The experience of developing countries, in particular Brazil and Africa, demonstrates the specific challenges of implementing WEEE legislation. D. Faibil *et al*. (2023) in a Ghana study found that operational factors have a greater impact on the implementation of EPR than strategic ones. The analysis of the Brazilian experience confirms this conclusion: despite the adoption of the National Solid Waste Policy in 2010, the practical implementation of the reverse logistics system took place only nine years after the signing of the sectoral agreement. This is important for Ukraine, which is at the initial stage of developing the WEEE management system. Results of the study by K. Li *et al*. (2023) on the modernisation of WEEE processing in China through EPR mechanisms demonstrated the possibility of combining environmental and economic goals. Success of GEM Co. Ltd. in creating a closed cycle, recycling with increased added value of dismantled materials is an example to follow. However, the study showed that the Chinese experience has limited applicability for Ukraine due to the lack of specific regulations on polymer additives in China, which is a critical gap in legislation.

N.W.M. Wong (2018), in a comparative analysis of Hong Kong and mainland China, found a tendency to harmonise EPR systems despite different administrative approaches. The current study extends this conclusion to a global level: despite significant differences in specific mechanisms, countries on different continents are moving towards similar regulatory models based on the principle of producer responsibility. Ukrainian researchers O. Yefremova *et al*. (2022) highlighted the potential of using recycled polymers in various industries. The analysis showed that the implementation of this potential in Ukraine will depend on the ability of Draft Law No. 2557-IX to take into consideration both the positive experience of the EU in the field of EPR and its problematic aspects related to the regulation of hazardous substances in polymers.

An important area of further development of the legislation is the introduction of specific requirements for marking polymer components of electronic equipment, which will help to increase the efficiency of their sorting and processing. The EU experience shows that this approach can significantly improve the circulation of materials in the field of e-waste management. To improve the Ukrainian policy in the field of WEEE, considering international experience, it is recommended first of all to speed up the adoption and implementation of

Draft Law No. 2557-IX (2019), having developed a clear mechanism for financing the EPR system and identifying responsible bodies. It is also important to ensure cooperation between all stakeholders, as the creation of platforms for dialogue between the government, manufacturers, distributors, and public organisations is critical for successful implementation, as evidenced by the experience of Brazil. Moreover, it is necessary to consider the world experience when studying the successful models of Germany and Sweden in creating efficient collection and processing systems, and factoring the challenges associated with regulatory contradictions that have arisen in the EU. In addition, it is advisable to promote scientific research, which in Ukraine should be aimed at analysing the technical and economic feasibility of processing polymers with WEEE in the conditions of new, more stringent environmental standards. These recommendations are based on a comprehensive analysis of international experience and consider the specifics of the Ukrainian legal framework. However, limited financial and technical resources should be considered for the introduction of advanced processing technologies. Thus, the analysis revealed a key gap in global legislation: none of the countries studied, except for the European Union, has specific rules for regulating polymer materials in electronic waste. The absence of such standards is the main regulatory barrier that makes it impossible to efficiently process the WEEE polymer fraction at the industrial level.

Conclusions

The analysis of legislative approaches to the management of polymer waste of electronic equipment at the international and national levels indicates the dominance of the principle of extended manufacturer responsibility as the most effective regulatory model. This approach has been successfully implemented in the European Union, the United States, China, Australia, and Brazil, although with different implementation mechanisms that reflect regional characteristics and priorities. The European Union is a leader in this area, having implemented comprehensive WEEE and RoHS directives, although it faces new challenges related to the recycling of plastics containing hazardous substances. The revealed contradiction between the goals of maximum polymer processing and strict restrictions on the content of brominated flame retardants demonstrates the need for an integrated approach to the development of an environmental policy that considers the technological capabilities of the processing industry.

The US experience shows that the lack of unified federal regulation can lead to fragmentation and uneven standards. While Asian and Latin American countries are actively implementing EPR systems, adapting them to their own conditions. The study also found that none of the countries analysed, except the EU, has specific regulations on polymer materials in the composition of e-waste, which is a significant gap in global legislation. Ukraine, following the global trend, is taking significant steps in developing the Draft Law No. 2557-IX, which meets European standards. This is an important step in the development of a advanced and efficient e-waste management system that can protect the environment and promote sustainable development. However, for successful implementation, it is necessary to draw on both the positive experience of other countries and the challenges they face. Further research should be directed to a detailed analysis of the technical and economic feasibility of processing polymers with WEEE in Ukrainian conditions, development of proposals for specific norms for the polymer fraction in Ukrainian legislation, and the investigation of the possibilities of harmonisation of Ukrainian standards considering the identified contradictions in EU legislation.

Acknowledgements

None.

Funding

None.

Conflict of Interest

None.

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Законодавчі підходи до поводження з полімерними відходами електронного обладнання: міжнародний та національний вимір

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Анотація. Актуальність дослідження зумовлена стрімким зростанням обсягів відходів електричного та електронного обладнання у світі, які за прогнозами перевищать 74 мільйони тон до 2030 року, та особливою складністю переробки полімерної фракції, що містить небезпечні вогнезахисні добавки. Метою роботи був всебічний аналіз законодавчих підходів до поводження з полімерними відходами електронного обладнання на міжнародному та національному рівнях та розробка практичних рекомендацій для їх імплементації в Україні. Методологічну основу дослідження становила комбінація порівняльно-правового та системно-структурного аналізів, що дозволила зіставити законодавчі підходи шести країн та регіонів. Встановлено, що принцип розширеної відповідальності виробника є домінуючою моделлю регулювання у світі, яка успішно впроваджена в ЄС, США, Китаї, Австралії та Бразилії. Проаналізовано суперечність між цілями переробки полімерів та обмеженнями щодо вмісту небезпечних речовин, зокрема бромованих антипіренів, у законодавстві ЄС. Виявлено, що лише 0,4 з 2,6 мільйонів тон полімерів з електронних відходів, що утворюються щорічно в Європі, надходять на переробку. Розроблено практичні рекомендації щодо імплементації законопроєкту № 2350 в Україні з урахуванням досвіду інших країн. Результати дослідження можуть бути використані органами державної влади при формуванні національної політики управління електронними відходами, а також науковцями для подальших досліджень у сфері екологічного права та циркулярної економіки. Окрім того, визначено основні регуляторні бар'єри для ефективної переробки полімерної фракції, пов'язані із законодавчими обмеженнями вмісту небезпечних добавок у вторинній сировині та відсутністю специфічних норм щодо полімерних матеріалів у більшості національних законодавств. Практична цінність дослідження полягає у можливості використання сформульованих рекомендацій органами державної влади при розробці підзаконних актів до законопроєкту № 2557-IX та підприємствами при організації систем збору та переробки електронних відходів

Ключові слова: відходи електричного та електронного обладнання; екологічна безпека; нормативно-правова база; розширена відповідальність виробника; циркулярна економіка; імплементація в Україні

ISSN 2786-491X, e-ISSN 3083-7472

Philosophy, Economics and Law Review

Vol. 6. No. 1. 2026
Received: 30.10.2025
Revised: 17.03.2026
Accepted: 30.04.2026
Published: 29.05.2026

Journal homepage: https://phelr.com.ua/en

UDC 346.7:004.738.5

DOI: 10.63341/2786-491X-2026-1-49

Regulation of e-commerce: New challenges for management

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Abstract. The study aimed to determine the impact of government regulation on the operations of digital platforms and the management strategies of e-commerce companies, with a view to optimising business processes and ensuring compliance with legislation. The methodology included methods such as statistical analysis, comparative analysis, the systems approach, and the generalisation method. The study determined that the share of online sales in global trade rose from 12% in 2015 to over 20% in 2024-2025. In Ukraine, the volume of online sales reached approximately UAH 256 billion in 2025. The study established that Ukrainian legislation combines the protection of consumer rights, personal data and the legal validity of electronic agreements, but requires further harmonisation with international standards and the improvement of risk management systems for the stable development of e-commerce. The study summarised that France and Germany set high standards for personal data protection through the General Data Protection Regulation, the US focuses on the legitimacy of electronic agreements through the E-SIGN Act, and China regulates platform activities and digital payments, ensuring transaction security and the transparency of digital markets. Online marketplaces and payment services are implementing systems for vendor verification, ratings and reviews, product quality control, ensuring transaction transparency and cybersecurity, which promotes self-regulation of digital markets and compliance with government regulations. The recommendations include process automation, data protection, integration of regulatory requirements, risk management and staff training to enhance the transparency of operations, transaction security and the operational efficiency of e-commerce companies. The findings can be used by company managers, digital platform analysts and legislators to optimise business processes, implement compliance policies and improve regulatory mechanisms in the e-commerce sector

Keywords: digital platforms; legislation; data protection; cybersecurity; online sales

Introduction

The rapid development of e-commerce significantly impacts the commercial activity mechanisms, interactions between the parties involved in commercial activities, and management processes principles. The development of e-commerce and the growth of cross-border transactions complicate the legal framework governing the market and significantly complicate regulatory activities related to e-commerce. An increase in the volume of e-commerce transactions requires improving the regulatory mechanisms governing the transparency of commercial activities and their management. Therefore, research into the regulation of e-commerce becomes relevant for determining appropriate approaches to managing e-commerce processes and activities and formulating effective management decisions for these processes.

Research into the regulation of e-commerce is currently developing in the academic literature due to the transformation of managerial approaches to organising business activities and interactions between market participants as a result of the spread of digital commerce. A. Ahi *et al.* (2022) conducted research into the issue of e-commerce policy in the global economy and analysed the regulatory mechanisms that govern the processes of digital trade. The researchers analysed the impact that regulatory decisions have on the

Suggested Citation:
Sakaly, M. (2026). Regulation of e-commerce: New challenges for management. *Philosophy, Economics and Law Review*, 6(1), 49-62. doi: 10.63341/2786-491X-2026-1-49.

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development of international e-commerce and suggested ways of creating a more inclusive economic environment for international trade. Another issue that has attracted the attention of researchers in the field of e-commerce is the legal framework governing e-commerce platforms. P. Celestin (2024) investigated the development of legislation in the field of e-commerce and mechanisms for the protection of consumer rights in e-commerce platforms.

The paper highlights changes in legal norms aimed at increasing the transparency of online trade and the accountability of participants in e-commerce relations. The spread of e-commerce affects not only legal regulation but also the organisation of logistics processes. V. Gatta *et al.* (2023) investigated trends in the development of urban logistics in connection with the growth of e-commerce and analysed the challenges of managing transport flows. The researchers examined the challenges associated with the increase in online deliveries, as well as opportunities for optimising logistics systems. In particular, the global nature of e-commerce regulation was emphasised. O.A. Yurchenko *et al.* (2024) examined the transformation of e-commerce regulatory mechanisms in the context of globalisation. The study analyses international approaches to the legal regulation of digital commercial transactions and identifies the challenges facing regulatory authorities as online markets expand.

The development of regulatory policies in the field of e-commerce was addressed in studies on the characteristics of regulatory strategy formulation. Z. Dou *et al.* (2023) studied e-commerce regulatory policy based on an analysis of its development. The researchers examined the structure of regulatory mechanisms and assessed the effectiveness of regulatory instruments used to support the stable functioning of online markets. A comparative analysis of the development of e-commerce in different countries is of interest to researchers. S. Levytska & R. Demianiuk (2023) analysed the development of e-commerce in Poland and Ukraine and examined the factors influencing its regulation. The paper highlights the distinctive features of legislative approaches to the management of digital trading processes and identifies key challenges for the development of e-business. The growing role of social networks and digital platforms is also creating new management challenges in the field of e-commerce. B. Mujtaba & F. Cavico (2023) traced e-commerce and social media policies in the digital age. The researchers have examined the legal and ethical aspects of regulating online activities and formulated recommendations for managing digital business processes.

The integration of innovative technologies is transforming approaches to e-commerce management. N. Rane *et al.* (2024) investigated the use of artificial intelligence technologies in business management, finance and e-commerce, identified the factors influencing their adoption, and outlined the challenges of implementation. Issues and trends in the development of e-commerce are also highlighted in the work of V. Santos *et al.* (2023). The researchers reviewed key issues, opportunities and trends in the development of e-commerce and analysed its impact on organisational performance. The paper examines managerial approaches to the use of digital marketing strategies and communication technologies. This area of research concerns the role of e-commerce in the development of innovative business activities. L. Verbivska *et al.* (2023) analysed the impact of e-commerce on the innovative development of business in the context of European integration. The study examines mechanisms for stimulating entrepreneurial activity through digital trading platforms and assesses their impact on the development of economic systems.

Despite the areas covered by the authors mentioned above, there remain certain gaps in the academic literature regarding a comprehensive analysis of e-commerce regulatory mechanisms and their impact on management activities. Systematic analysis of management tools that ensure the effective functioning of e-commerce platforms amid the growth of digital transactions remains insufficient. The issue of adapting management approaches to new regulatory requirements arising in the course of e-commerce development also requires further study. The study aimed to analyse the impact of regulatory requirements on the functioning of digital platforms and the management decisions of companies in the e-commerce sector. The objectives of the study were to conduct a statistical analysis of the dynamics of e-commerce revenue in Ukraine and the global share of e-commerce in retail sales for the period 2015-2025 to identify growth trends and fluctuations between global and national indicators; to analyse the legislative and regulatory frameworks and regulatory approaches of various countries (the United States of America, China, Ukraine, as well as Germany and France) regarding e-commerce, the functioning of digital platforms and payment systems, and to evaluate companies' management decisions for adapting business processes to digital standards and ensuring compliance and cybersecurity.

Materials and Methods

The study was conducted in four stages, employing methods such as statistical analysis, comparative analysis, the systems approach and generalisation. The statistical analysis method was applied in the first stage. The following indicators were described: the share of e-commerce in global retail sales (%), the volume of e-commerce revenue in Ukraine (million USD), the total volume of online sales (billion UAH), the number of online shoppers (million people), the average number of purchases per user, the share of e-commerce in the retail trade structure, the level of internet penetration, as well as the volume of cross-border shipments and the structure of product segments in the online market. For statistical analysis, global e-commerce indicators from S. Ricci (2025), Red Stag Fulfilment (2026), K. Edwards (2026), national data on online sales in Ukraine from AfterShip (2026), and characteristics of market concentration and the share of marketplaces in Ukraine from Dotdesh (2025).

As part of the second phase, the legislative and regulatory frameworks and regulatory approaches of the USA, China, Ukraine, and European Union countries – in particular Germany and France – were analysed based on a comparative study. These countries were chosen based on their leadership and diversity in the field of e-commerce. The United States is the leader in innovation in the field of e-commerce. China has the largest population of e-commerce consumers and implements some of the most unique regulatory models for the nation. Ukraine is undergoing a transformation in e-commerce and is one of the more developed nations in Eastern Europe. Germany and France are two of the more developed countries in Europe and have some of the most rigorous regulations regarding both e-commerce and innovation in digital technologies. The European Union created the General Data Protection Regulation in 2016, which applies to all member states of the European Union, including Germany and France. The United States passed the Electronic Signatures in Global and National Commerce Act in 2000, which regulated the use of electronic signatures in the formation of digital agreements. Finally, China has the the E-Commerce Law of the People's Republic of China (2018) and Personal Information Protection Law of the People's Republic of China (2021). In Ukraine, Law of Ukraine No. 2297-VI (2010) and Law of Ukraine No. 675-VIII (2015) were examined. Analysis of these documents formed a theoretical framework for the study and the identification of key regulatory trends in the digital economy. The analysis was conducted based on criteria relating to the protection of personal data, the legal validity of electronic signatures, the regulation of digital platforms, the security of digital payments, alignment with international standards, enforcement mechanisms and sanctions, and the regulation of cross-border transactions.

In the third stage, as part of a systematic analysis, the relationship between national regulatory requirements, the operations of the digital platforms Amazon and Alibaba, the payment systems PayPal, Apple Pay and Google Pay, and the management decisions of companies operating in the e-commerce sector was examined. The platforms were selected for the study due to their role in the global e-commerce environment and to analyse the compliance of their operations with the current regulatory requirements of the aforementioned countries. This identified key management challenges associated with the need to adapt companies' strategies to changes in legislation, the implementation of compliance policies, the management of cybersecurity risks, and the protection of user data. In the final stage, the main trends in the transformation of regulatory policy in the field of e-commerce were identified. As a result, recommendations were formulated for managers regarding the integration of regulatory requirements into strategic corporate management, the adaptation of business processes to new digital standards, and the improvement of the effectiveness of risk management systems in the context of the developing digital economy.

Results

The modern stage of development of e-commerce is characterised by the rapid growth of online trade volumes, the spread of digital technologies within economies, as well as the integration of the national economies into the global digital economy. In this stage, e-commerce has developed into one of the main segments of the digital economy, but also presents new challenges for the regulation of that economy by the state. Table 1 demonstrates the steady growth in the share of e-commerce in the overall economy, indicating the digitalisation of the market on a global scale over time.

Table 1. The share of e-commerce in global and Ukrainian retail sales (2015-2025)

Year	Share of e-commerce in global retail sales (%)	Ukrainian e-commerce revenue (million USD)
2015	12	-
2016	13.5	-
2017	15	1,789
2018	17	2,183
2019	18	3,096
2020	18.8	4,045
2021	18.8	5,120
2022	19.4	3,904
2023	19.9	4,092
2024	19.9	4,375
2025	20.5	4,862

Source: compiled by the author based on K. Edwards (2026)

An analysis of the data in Table 1 showed that the share of e-commerce in global retail sales rose from 12% in 2015 to 18% in 2019 and to 19.9% in 2023-2024, a trend attributed to the increasing digitalisation of the market, the widespread adoption of online platforms, increased consumer access to the internet and a shift in buyer behaviour towards online shopping, as well as the impact of the 2020 pandemic, which accelerated consumers' transition to the digital space. Between 2017 and 2025, e-commerce revenue in Ukraine grew steadily: in 2017 it amounted to USD 1,789 million, in 2019 it reached USD 3,096 million, and in 2021 it exceeded USD 5,120 million. Despite minor fluctuations in 2022-2023 (3,904 and USD 4,092 million, respectively), revenue had increased to USD 4,862 million by 2025, indicating stable growth in the country's e-commerce market.

In Ukraine, the development of e-commerce is showing steady growth, even amidst difficult economic and military conditions. According to market research, in 2024 the volume of online sales in Ukraine amounted to approximately UAH 239 billion, which is roughly 25% higher than in 2023. Meanwhile, the number of online shoppers exceeded 11 million, and the average number of online purchases per user stood at around 17 orders per year. E-commerce accounts for around 10% of the retail sector in Ukraine, indicating potential for further growth compared to the more digitalised markets of Europe and North America (Kuzmenko, 2024). In 2025, the volume of online sales reached approximately UAH 256 billion, which is 7% higher than in 2024, whilst the number of online shoppers rose to 11.2 million people. According to analysts' estimates, around 24.8 million people in Ukraine use the internet, creating potential for further expansion of e-commerce. The most popular categories for online shopping include electronics, household appliances, cosmetics, clothing and homeware (Bashynskyi, 2026).

A key trend in the development of e-commerce in Ukraine has been the rapid growth of cross-border online trade. According to researchers' estimates, in 2024, the number of international postal items related to online purchases reached approximately 73.5 million parcels with a total value of over UAH 120 billion, which is almost double the figures for 2023. At the same time, there has been active development of online marketplaces and digital platforms. For example, the largest Ukrainian marketplaces bring together tens of thousands of sellers and millions of products, whilst individual platforms control up to 45-50% of the online market, indicating a high concentration of digital trade and the need for antitrust and tax regulation (Dotdesh, 2025). As of early 2026, studies of the online market structure show that the largest share of online shops in Ukraine operates in the home goods segment (19.9%), clothing and footwear (16.9%), and food products (8.9%) (AfterShip, 2026).

These include issues relating to the monitoring of online sales, tax evasion, the protection of users' personal data, and combating fraud and the illegal import of goods via international postal services. The growth of cross-border e-commerce creates additional difficulties for customs and tax control, as goods enter the country via digital platforms without traditional trade channels. Global trends in e-commerce development confirm the relevance of these challenges (Red Stag Fulfilment, 2026). By 2026, this figure could exceed USD 8 trillion. At the same time, the share of online retail in global retail turnover had exceeded 20% by 2025, meaning that one in five purchases worldwide is made via online channels. Consumer behaviour studies also confirm the rapid digitalisation of trade. According to global surveys, approximately 67% of consumers worldwide make online purchases at least once a month. At the same time, shoppers are actively engaging in cross-border e-commerce, leading to the formation of global digital markets and the strengthening of the role of large international marketplaces (Ricci, 2025).

In many countries (the US, Germany, France), e-commerce is a key driver of change in the structure of international trade. The growth in online sales has caused a sharp increase in the number of small-value international transactions. For example, in international trade, the share of low-value transactions has risen from approximately 9-14% in the late 1990s to over 50-60% in the 2020s, which is directly linked to the spread of e-commerce and direct sales via digital platforms (Mínguez & Minondo, 2024). Consequently, the rapid growth of e-commerce creates a need for comprehensive national and international regulation. Key areas of regulatory policy include ensuring the transparency of digital markets, harmonising tax rules for online platforms, protecting users' personal data, combating cybercrime, and establishing effective mechanisms for monitoring cross-border trade. Thus, the modern development of e-commerce demonstrates both significant economic potential and the need to develop new regulatory models capable of striking a balance between the innovative development of digital markets and the protection of the interests of the state, business and consumers.

For the description of the regulatory documents for e-commerce for the major economic and trade partners of the Russian Federation, a comprehensive analysis of the domestic and international regulatory documents was carried out. The regulatory documents include the rights and obligations of participants of the electronic market, the protection of personal data, the legal force of electronic contracts, and the security of financial transactions. For the European Union, the primary regulatory document is the General Data Protection Regulation (2016). This regulation creates uniform rules for the processing and storage of personal data within the member states of the European Union. The regulation defines the obligations of those who process personal data, the rights of those whose personal data is being processed, and the conditions under which personal data is transferred between member states of the European Union. Furthermore, the regulation ensures that the companies that do not adhere to these requirements will receive heavy fines, encouraging them to integrate these data protection requirements into the policies and procedures of their companies.

The United States utilises federal legislation for the regulation of e-commerce activities. There are specific laws that were created to regulate various aspects of e-commerce in the United States. For instance, the Electronic Signatures in Global and National Commerce Act (2000) ensures that electronic signatures and contracts have the same legal force as paper documents and signatures. Furthermore, there is no regulation of personal data within federal law, although some of the states have implemented their own regulations on the issue of personal data protection and storage. For China, the regulatory document for e-commerce is the E-Commerce Law of the People's Republic of China (2018). Furthermore, regulations have also been issued by the State Administration for Market Regulation and the People's Bank of China that supplement the provisions of the e-commerce law. These regulations define the licensing of e-commerce websites, the registration of those who operate e-commerce websites, the regulation of e-payment systems, the regulation of the processing of personal data, and the restrictions on the access of foreign e-commerce websites.

The Chinese model is characterised by a high level of state control, which provides the ability to swiftly influence the online sector and ensures the security of financial transactions, but imposes significant regulatory restrictions on businesses. Chinese legislation, in particular the E-Commerce Law of the People's Republic of China (2018) and the Personal Information Protection Law of the People's Republic of China (2021), establishes a comprehensive legal framework for the functioning of the digital market, regulating the activities of e-commerce platforms, digital payment systems and the processing of personal data. The E-Commerce Law defines the legal status of online platform operators, their obligations regarding the verification of sellers, the conclusion of electronic contracts, the protection of consumer rights and liability for breaches, and stipulates requirements for the security of transactions and data processing in the field of e-commerce, thereby forming the legal basis for the development of the national e-commerce infrastructure. The Personal Information Protection Law emphasises the protection of users' personal information, regulates the collection, storage, use, transfer and protection of data, establishes the rights of data subjects and the obligations of organisations regarding their processing, defines the principles of processing restrictions and transparency of data operators' actions, and provides for sanctions for violations, thereby ensuring the security of the digital environment and user trust in online platforms and digital services.

In Ukraine, the legal framework for e-commerce is based on Law of Ukraine No. 2297-VI (2010) and Law of Ukraine No. 675-VIII (2015). The Law "On Electronic Commerce" defines the legal status of digital market participants, the rules for concluding electronic contracts and obligations regarding consumer protection. The Law "On Personal Data Protection" regulates the processing, storage and transfer of personal information. Table 2 presents a comparative analysis of regulatory approaches to e-commerce.

Table 2. A comparative analysis of regulatory approaches to e-commerce

Approach/ indicator	EU (Germany, France)	US	China	Ukraine
Primary bill	General Data Protection Regulation	E-SIGN Act	The PRC Law on E-Commerce	The Law of Ukraine "On Electronic Commerce", the Law "On the Protection of Personal Data"
Personal data protection	Full control, a duty to report breaches, and heavy fines	Partial, sector-specific, regulated by the states	State oversight, restrictions on data transfers, and platform licensing	Key principles and the gradual adaptation to the General Data Protection Regulation, in relation to the Ukrainian Parliament Commissioner for Human Rights and the relevant department of Secretariat
Legal validity of electronic signatures	An electronic signature has the same legal validity as a handwritten signature within the EU and is recognised in all Member States, provided that the established requirements for its creation and verification are met	Full legitimacy	Partial, as they are applied primarily in civil contracts and do not cover full legitimacy at all levels of state regulation	Legal definition applicable to civil contracts
Regulation of digital platforms	Regulates data processing and consumer protection	Limited, partly at the market level	Strict government oversight, transaction monitoring	Tax and legal compliance, registration of entities

Table 2. Continued

Approach/ indicator	EU (Germany, France)	US	China	Ukraine
Digital payment security	High standards of confidentiality	Industry standards, banking supervision	Regulation via the National Bank, restrictions on foreign payments	Key standards, implementation of international standards
Alignment with international standards	Full integration, mandatory	Partial	National standards	Gradual adaptation to the General Data Protection Regulation and best practices
Control and sanctions mechanism	Fines of up to 4% of annual turnover, supervisory authorities	Court rulings, staff regulations	Administrative and financial penalties	Administrative and civil penalties, State Data Protection Service
Cross-border transactions	Strict regulations on data transfers outside the EU	Regulated separately, licences	Permitted only following official approval	Gradual adaptation to international rules

Source: compiled by the author based on Electronic Signatures in Global and National Commerce Act (2000), Law of Ukraine No. 2297-VI (2010), Regulation of the European Parliament and of the Council No 910/2014 (2014), Law of Ukraine No. 675-VIII (2015), General Data Protection Regulation (2016)

The difference between international practices and the Ukrainian approach to regulating e-commerce is evident in the structure of the regulatory framework, the level of oversight over digital platforms, and the approaches to consumer protection and personal data protection. In European Union countries, particularly Germany and France, regulatory policy is based on the General Data Protection Regulation (2016), which sets high standards for the protection of personal data, regulates the processing of information, defines users' rights and operators' obligations, and provides for significant penalties for violations, thereby stimulating the development of internal risk management procedures within companies and ensuring the transparency of digital markets. In the United States, the legal validity of electronic signatures and agreements is provided for by the Electronic Signatures in Global and National Commerce Act (2000), although there is no federal legislation governing personal data protection, leading to some variation between the states and sectors in which the companies operate. The Chinese government has a high level of control over e-commerce, licensing of e-platforms, digital payments, foreign operators, and personal data processing to ensure that the e-commerce market is secure and able to react rapidly to any threats, although this strict regulation limits flexibility for the companies. Ukraine has incorporated many of the components of both the United States and Chinese regulatory practice, introducing legislation to regulate digital market participants, electronic contracts, and the rights of consumers and their personal data, although many of these regulations are only in rudimentary stages of implementation within the country. Among the examples of the implementation of the provisions of the Personal Information Protection Law of the People's Republic of China (2021) are the requirements for mobile and e-commerce platforms to obtain the consent of their customers before the processing of their personal data, and to locally store that personal data within the country. Additionally, the E-Commerce Law of the People's Republic of China (2018) requires the registration of the sellers that participate in the e-commerce platforms, the identification of these business entities, the marketplaces' liability for the products and content on these platforms, and the protection of the rights of the consumers in the case of a breach of the terms of the electronic agreements between those consumers and the identified sellers. Compared with the practices in other countries, the regulatory practice in Ukraine's e-commerce sector will need to develop systems to provide for the transparency of the digital markets, enhance the risk management systems of the platforms, and ensure that the regulation of e-commerce platforms and activities will be in alignment with global security and privacy standards while maintaining a balance between the development of the e-commerce sector of the economy and the need to protect that economy, its individual businesses, and its consumers.

The relationship between regulation of e-commerce in the countries discussed, the operations of the digital platforms that exist within those countries, and the decisions of the managers of those platforms interact to develop a system that manages the activities, development, and risks of the companies that participate in the e-commerce. Each of the aforementioned legislation within the European Union, the United States, China and Ukraine impacts the operations of those digital marketplaces and platforms, as well as those digital payment systems such as PayPal, Apple Pay and Google Pay. The best approach to the regulation of e-commerce platforms includes the implementation of various legislative measures to provide for the oversight of the platforms by the government, as well as the implementation of various policies within the digital platforms themselves to provide for the management and control of those digital spaces. Platforms like Amazon and

Alibaba have introduced the implementation of systems to verify the identities of their sellers and to rate those sellers according to the products they offer and the quality of their customer service. Furthermore, those platforms have implemented systems to ensure that the products offered within their online marketplaces are clearly visible to the customers and contain accurate information regarding the products. Additional systems implemented by those platforms include the combating of counterfeit goods, systems to resolve disputes between the sellers of those platforms and the buyers of their products, as well as policies regarding data privacy and cybersecurity. Thus, the digital platforms have become the key regulatory bodies within their own markets.

In addition to implementing various forms of regulation of their markets, the digital payment systems that exist within each of these countries are also crucial to the effective functioning of the e-commerce activity within each of these countries. Platforms such as PayPal, Apple Pay, and Google Pay provide the infrastructure for the e-commerce activity within the individual nations and ensure that their activities comply with the regulations related to financial monitoring. Each of these platforms utilises technologies that ensure that the digital transactions between the buyers and sellers are secure, as well as that the data related to those transactions is protected. Additionally, each of these platforms incorporates the regulation of compliance with international financial security standards and regulations related to activities such as money laundering and funding of illegal activities. Thus, each of these payment systems help to develop an effective system of management of e-commerce within each of these nations. The companies that participate in the e-commerce sectors of each of these countries face a number of management challenges related to the need to adapt to the regulations that apply to the e-commerce sectors. The e-commerce and digital regulations within each of these countries are rapidly changing, and each company is required to review its internal regulations in response to those developments. The management teams within each of these companies are required to incorporate the regulatory requirements for e-commerce into their strategic management of the company's e-commerce platforms. Additionally, each company is required to implement systems and processes to ensure that its activities are in compliance with the regulations of both its nation and its international markets. As such, each company must implement systems for monitoring and enforcing compliance with these regulations. One aspect of the management of digital e-commerce platforms and companies is the implementation of data and information control systems within those companies to ensure that the personal data of the customers of those platforms is protected. As such, a number of those companies have implemented policies to protect that personal data of their customers. Furthermore, companies are also required to adapt to digital standards for their businesses, which includes the implementation of systems like automated resource planning systems, ordering systems and delivery planning software. An additional management challenge is the implementation of risk management systems for both the platform and companies, as well as the protection of the data of the customers of those platforms. Thus, risk management systems are one aspect of the management activities related to these digital companies.

The recommendations for the management of digital e-commerce companies and platforms include the automation of their processes and management systems, the protection of their consumers' personal data, the adaptation of their businesses to digital standards, the management of their logistics systems, the integration of regulatory requirements for the digital markets, the management of risks to those digital companies, the training of their employees to meet those digital and regulatory requirements, and the monitoring of regulatory changes to those platforms. One area of focus for digital e-commerce companies is the increasing transparency of their operations and the control of the circulation of the goods and services that they provide. Companies that operate on international e-commerce marketplaces make use of software platforms to track the orders that are placed by their consumers, to monitor the payments of those consumers, and to track the delivery of the goods that were ordered from those platforms. Thus, the software helps to ensure that the companies do not lose any of the goods that are being shipped to their consumers, and that the consumers are not in breach of any regulations that are established for the e-commerce sectors. Another recommendation for the digital e-commerce companies is the implementation of methods that will protect the personal data of their consumers. As discussed above, one method is the encryption of that personal data, as well as the implementation of procedures to regulate and control the access to that personal data of each of their consumers. Additionally, companies that manage their platforms as discussed above have also implemented systems that use multi-factor authentication methods to both protect the data of and the accounts of their customers. Additionally, each company has implemented policies to protect its internal systems against cyberattacks and the regulation of the access logs of those systems. Each of these systems reduces the risks of the companies' data being accessed by individuals without access rights, of the customers of the platforms being treated by individuals without the required permissions, and of the companies as a whole not complying with their regulations on data privacy.

Adapting the businesses of e-commerce platforms to digital standards requires each company to implement automated systems such as resource planning software, order processing software, inventory management software, and delivery planning software. Furthermore, the companies make use of various digital tools to develop an understanding of the demands of their products and the needs of their customers, which allows those companies to better manage their resources, deliveries and stocks in their locations. The implementation of risk management systems within each of the digital e-commerce companies includes the implementation of internal departments that monitor both their companies and the e-commerce platforms for compliance with existing laws and regulations, the management of cybersecurity systems, as well as the implementation of contingency plans that will be used in the case of an identified risk. Additionally, automated algorithms can monitor the financial activity of each company to determine any potential risks to their finances. Furthermore, those companies make use of data analysis software to determine the likelihood that certain risks to the company will occur, and to implement plans to address those risks. For instance, software applications in the United States implement automated systems that can monitor the activities and transactions of the companies and prevent them from incurring any financial losses from fraudulent transactions or other financial risks. Additionally, in the countries that make up the European Union, companies implement their personal data protection standards into the creation of the software that they sell to their customers, requiring their databases to be encrypted, the access to their data to be restricted to their employees and others with an appropriate access right, and implementing regular system audits to ensure the security of the system.

An additional aspect of the risk management systems and processes implemented by the digital e-commerce companies is the adaptation of their business processes to digital standards. In the United States, for instance, many of the companies have begun to automate their processes for the detection of fraudulent transactions. In the European Union countries, most of the digital companies have implemented their personal data protection standards as part of the construction of their platforms and websites, requiring those databases to be encrypted, the access to those databases to be limited to their employees, and implementing system audits to ensure that the data is secure. Additionally, each of the companies and platforms within the United States have begun to adapt their business processes to digital standards by integrating many of their payment systems with the accounting systems within the company. Furthermore, the companies have begun to automate the processes of their orders and sales, as well as the accounting systems related to those sales. In addition to those efforts within the United States, many of the companies that operate on international e-commerce marketplaces have implemented risk assessment systems for those companies that wish to participate in the marketplaces, as well as implementing systems that ensure the quality of the products that are being sold on those platforms, as well as ensuring that the companies comply with the regulations of the tax authorities of the nations where those companies sell their products. Additionally, the digital logistics companies have implemented the use of digital tools to manage their inventory of the products that they will deliver to their customers, as well as to manage their systems for determining the routes of their deliveries of those products to their customers, as well as to track the movements of those products. Thus, the implementation of these management systems and software applications ensure that the digital companies of the United States are able to effectively manage and automate their businesses and logistics.

The management of the digital e-commerce companies includes the implementation of a variety of risk management systems and methods. One method that can be implemented as part of the risk management systems of these companies is the development of protocols for responding to any incident that threatens the company, such as a data breach or cyberattack. In addition to the development of those protocols, the companies may require the establishment of financial reserves that may be used to compensate the company for any losses that may be experienced as a result of these threats to their data or operations. Additionally, their management teams may require the training of their employees regarding the development of these risk management systems. Furthermore, these management teams may also automate the risk management systems that are established within their companies. Thus, ensuring that their management teams become aware of the regulatory changes that may impact their companies, and incorporating those changes into their management of those companies will allow those companies to continue to succeed within the digital markets.

The integration of regulatory requirements into the management of these companies and their e-commerce platforms includes the management of the transactions that occur on their platforms, the management of their logistics systems, their sales accounting systems, their systems related to the protection of their personal data, and the automation of their processes. These companies are utilising various digital tools to analyse the behaviour and the purchasing activities of their customers, to determine the demands of their customers, and to manage the processes of their companies and resources according to those analyses. Furthermore, each company is implementing risk management systems related to the operations of the company, which will ensure that each of its processes are effectively managed in response to the changes in the market, and which will allow for the company to remain in compliance with its regulations and remain in operation. The trends in the regulatory policies of the countries discussed have led to the adoption of digital technology to each of the areas of their businesses. The implementation of various digital technologies into the management of their digital e-commerce companies and platforms will ensure their stable and effective development. Thus, each company that participates in the e-commerce sectors of their countries will benefit from the integration of these digital technologies into their companies' management systems and processes. In the management of digital e-commerce companies and their platforms, a balance between the regulatory requirements of each of these countries, the management of the digital platforms, and the implementation of digital technologies into the management of those platforms will ensure their success.

Discussion

The regulation of e-commerce involves the expansion of regulatory functions, which encompass the oversight of digital transactions, the organisation of information security, the coordination of logistics processes, and the use of analytical technologies for management decision-making, whilst the effectiveness of managing this sector is determined by a combination of regulatory mechanisms, technological infrastructure and organisational tools that ensure the stable operation of digital trading platforms. This interpretation of the results confirms the findings of D. Cumming *et al.* (2022), who analysed e-commerce policy in international business and noted that regulatory mechanisms shape the operating conditions of global online markets and determine the direction of management decisions in the field of digital trade. Their study presented an analysis of the political and economic factors influencing the formation of e-commerce policy and the organisation of the management of international digital business processes. The development of e-commerce is accompanied by the need to strengthen the security of digital transactions and information systems. The study established that effective e-commerce management requires the implementation of technological solutions that ensure data protection, control of financial transactions and the stability of digital platforms. This conclusion is consistent with the findings of S. Ali (2023) and L. Albshaier *et al.* (2024), who identified the architecture of secure e-commerce platforms for public cloud environments. The paper describes the principles of building secure e-commerce systems and examines mechanisms for managing risks associated with digital transactions.

The growth of e-commerce has been accompanied by an increasing use of machine learning algorithms to manage commercial processes. The study determined that analytical technologies contribute to an increase in the productivity of e-commerce systems, optimise the processing of large data sets and improve the management decision-making process. These results correlate with the findings of J. Chukwunweike *et al.* (2024), who investigated the use of machine learning to enhance e-commerce productivity. The potential of algorithmic methods in demand forecasting, sales optimisation and the management of digital business processes has been analysed. The regulation of e-commerce is directly linked to the development of entrepreneurship, particularly in the small and medium-sized enterprise sector. The study determined that an effective regulatory framework facilitates the expansion of business participation in digital markets and stimulates the integration of e-commerce into companies' business models. This approach reflects the findings of N. Indiani *et al.* (2025), who highlighted the potential of e-commerce for the development of small and medium-sized enterprises. An integrative model for the implementation of e-commerce is presented, and the factors influencing its use in the business sector are identified. The growth in e-commerce volumes is changing approaches to the management of logistics processes. The regulation of e-commerce encompasses the organisation of transport flows, the optimisation of goods delivery, and the coordination of interactions between various participants in logistics systems. This finding is consistent with the research by J. Gonzalez *et al.* (2023), who analysed the prospects for the development of logistics in the field of e-commerce. Factors influencing the efficiency of logistics processes in an urban environment have been identified. E-commerce management requires the improvement of systems for monitoring and auditing goods flows. The effectiveness of management decisions depends on the use of digital technologies for stock monitoring, data analysis and the optimisation of warehouse operations. This approach reflects the findings of E. Groenewald & O. Kilag (2024), who investigated inventory audit practices in e-commerce. An overview of technological solutions is provided for the control of warehouse processes and the management of goods resources.

Management decisions must account for the technological, organisational and economic factors that influence the adoption of e-commerce. This finding supports the conclusions of M. Loo *et al.* (2024), who conducted a systematic review of the factors and barriers to the adoption of e-commerce in small and medium-sized enterprises. The Technology-Organisation-Environment model was applied to analyse the technological, organisational and environmental factors influencing the adoption of e-commerce. Another finding of the study is the identification of the role of financial technologies in the development of e-commerce. This conclusion aligns with that of M. Mahmud *et al.* (2024), who investigated the use of artificial intelligence for credit risk assessment in BNPL systems; the authors emphasise that the implementation of advanced analytical algorithms improves in financial scoring and reduces risks for e-commerce platforms. E-commerce management is increasingly based on the use of predictive analytics and complex data processing systems. Analytical models can predict consumer behaviour, optimise business processes, and improve effectiveness of management decisions. This interpretation of the results is consistent with the findings of M. Madanchian (2024), who highlighted the role of complex systems in predictive analytics for e-commerce; the study showed that the use of predictive models optimises management decisions and improves the efficiency of business processes on digital trading platforms. This is supported by the study by Z. Morić *et al.* (2024), who confirmed the mechanisms for ensuring data security in the context of e-commerce. These findings indicate the need to incorporate technological solutions to protect the confidential information of the users of these digital platforms. Companies that implement technological security systems and processes are found to be more effective at reducing the risks of data breaches from their digital platforms. T. Rahardjo *et al*. (2025) investigated the importance of legal frameworks for the protection of the consumers of these digital platforms within the country of Indonesia. The integration of these legal frameworks within the companies' policies will lead to a reduction of the risks of legal violations from these platforms, as well as to an increase in the trust of the users of those digital platforms. Furthermore, the active implementation of artificial intelligence within these management processes was found to be effective according to the findings of O. Odeyemi *et al*. (2024). The automation of various processes within these companies' platforms allows them to better predict the behaviour of their customers, leading to an increased effectiveness in their management strategies. The implementation of machine learning algorithms also allows for an increase in the response time of the digital platforms to the questions or inquiries of their customers, as described by K. Zhou (2023) within the discussion of financial models for cross-border e-commerce platforms that use these technologies.

The incorporation of artificial intelligence into the management of these digital platforms not only introduces new methods of management for the company operators, but also introduces a new bar for the management of the digital data of those companies. The management of the risks that arise from the operation of the digital platforms indicates the findings of N. Urrea *et al*. (2024). Companies that use a systematic approach to the management of the risks of their digital platforms find a reduction of the errors in the performance of their deliveries, as well as a noticeable increase in the satisfaction of their customers with the company and their products and services. These findings indicate the need for the development of more procedures to manage and contain any failures in the digital platforms' processes. Companies that do not use a systematic approach to risk management within their digital platforms were determined to have a higher likelihood of experiencing financial losses from those platforms. This finding is in accordance with the findings of L. Ratih & P. Anggia (2024), who determined that non-compliance with the tax regulations of Indonesia as they relate to their electronic transactions with their customers and other businesses will lead to financial and legal problems for these companies within the country. The lack of standardised tax and control procedures for digital companies creates additional challenges for their managers. The development of policies that ensure the platforms are in alignment with the policies of the government is, therefore, another suggested solution for these digital companies.

The findings of both I. Rahman *et al*. (2024) and N. Lomas (2024) indicate that the policies and regulations within Indonesia relate to the digital companies within that country, as well. The combination of these technological and legal solutions will lead to the increased efficiency of the digital platforms in question. Furthermore, the findings of A. Oliveira *et al*. (2023) indicate that the expectations of the consumers will have an impact upon the effectiveness of the e-commerce platforms. Platforms that offer quality guarantees and return policies for their customers were found to have a positive impact upon the behaviour of the users of those websites. Additionally, any management decisions that relate to improving the e-commerce platforms will have a direct impact upon the retention rates of those customers. These findings are in line with the findings of C. Sahila (2021), who also determined that the reliability of the digital platforms will have a direct impact upon the behaviour of the customers of those companies. The implementation of policies that ensure that digital platforms offer customers quality guarantees and return policies will have a positive impact upon the loyalty of their customers and the stability of their interaction with the digital platforms. Similar findings were also made by M. Shou *et al*. (2023), who determined that the regulations established by the government also have a direct impact upon the operational activities of digital streaming platforms. The compliance with the regulations will lead to a reduction of the risks of sanctions being established against those digital companies. The findings of these various researchers and authors, therefore, indicate that the management of any digital platforms requires the implementation of a variety of solutions that range from technological to legal solutions. The implementation of policies that ensure that the digital companies are operating in a transparent, safe, and regulatory-compliant manner will lead to an increase in the trust that is placed in these companies by their customers, as well as to the stability of their processes overall.

Conclusions

The report has established that between 2017 and 2025, the revenues of e-commerce in Ukraine generally grew steadily, from the starting figure of USD 1,789 million in 2017, to USD 5,120 million in 2021, fluctuating somewhat between USD 3,904 million in 2022 and USD 4,092 million in 2023, but rising to USD 4,862 million in 2025. The share of e-commerce sales of the total sales of the retail sector of the country generally increased from 12% in 2015 to 20.5% in 2025, indicating the integration of the country into the global e-commerce sector. The current development of e-commerce in Ukraine and around the world indicates the rapid growth of online sales of goods and services of the global and Ukrainian economies. For instance, the share of e-commerce sales of the total sales of the retail sector of the country and the world grew from 12% in 2015 to over 20% in 2024-2025, and the total volume of online sales in Ukraine reached around UAH 256 billion in 2025. Other relevant indicators include the number of online shoppers in the country (over 11 million), the average number of online orders placed by each shopper in Ukraine (17 orders per year), and the growth of cross-border e-commerce. Currently, the primary concerns regarding the growth of the Ukrainian e-commerce sector relate to the need for the state to regulate the platforms within the sector, to protect the personal data and data security of consumers of those products.

Furthermore, the global growth of e-commerce is characterised by a sharp rise in online sales and an increase in the number of small-scale international transactions, which is transforming the structure of international trade. In EU countries, regulation is based on the General Data Protection Regulation, which ensures a high level of personal data protection, transparency in digital markets, and the mandatory implementation of internal risk management procedures by companies. In the US, the focus is on the legitimacy of electronic signatures and digital agreements through the E-SIGN Act, whilst China regulates platforms, digital payments and the processing of personal data, ensuring transaction security but limiting business flexibility. In Ukraine, legislation combines the protection of consumer rights, personal data and the legal validity of electronic agreements, but requires adaptation to international standards, increased transparency of digital markets and improved risk management systems for the stable development of the market.

The recommendations include the implementation of automated accounting and monitoring systems, the protection of personal data, the adaptation of business processes to digital standards, logistics and risk management, staff training, and the integration of regulatory requirements, thereby enhancing the transparency of operations, control over the circulation of goods and services, ensure compliance with legislation, and maintain the stability and efficiency of companies' operations in the e-commerce sector. Prospects for further research include the analysis of the impact of artificial intelligence and algorithmic systems on the dynamics of regulatory control and management decisions of companies in the e-commerce sector.

Acknowledgements

None.

Funding

None.

Conflict of Interest

None.

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Регулювання електронної комерції: нові виклики для керівництва

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Анотація. Метою дослідження було визначення впливу державного регулювання на роботу цифрових платформ та управлінські стратегії компаній у сфері електронної комерції для оптимізації бізнес-процесів і забезпечення відповідності законодавству. Методологія включала такі методи, як статистичний аналіз, порівняльний аналіз, системний метод, а також метод узагальнення. Було досліджено, що частка онлайн-продажів у світовій торгівлі зросла з 12 % у 2015 році до понад 20 % у 2024-2025 роках. В Україні обсяг онлайн-продажів досяг приблизно 256 млрд грн у 2025 році. Встановлено, що в Україні законодавство поєднує захист прав споживачів, персональних даних та юридичну силу електронних угод, проте потребує подальшої гармонізації з міжнародними стандартами та вдосконалення систем управління ризиками для стабільного розвитку електронної комерції. Узагальнено, що Франція та Німеччина встановлюють високі стандарти захисту персональних даних через General Data Protection Regulation, США акцентують увагу на легітимності електронних угод через E-SIGN Act, а Китай контролює діяльність платформ і цифрові платежі, забезпечуючи безпеку транзакцій та прозорість цифрових ринків. Онлайн-маркетплейси та платіжні сервіси впроваджують системи перевірки продавців, оцінки та відгуків, контролю якості продукції, забезпечення прозорості угод і кібербезпеки, що сприяє саморегуляції цифрових ринків та дотриманню державних норм. Рекомендації включають автоматизацію процесів, захист даних, інтеграцію регуляторних вимог, управління ризиками та навчання персоналу для підвищення прозорості операцій, безпеки транзакцій і ефективності функціонування компаній у сфері електронної комерції. Отримані результати можуть бути використані управлінцями компаній, аналітиками цифрових платформ і законодавцями для оптимізації бізнес-процесів, впровадження політик комплаєнсу та вдосконалення регуляторних механізмів у сфері електронної комерції

Ключові слова: цифрові платформи; нормативно-правові акти; захист персональних даних; кібербезпека; онлайн-продажі

ISSN 2786-491X, e-ISSN 3083-7472

Philosophy, Economics and Law Review

Vol. 6. No. 1. 2026
Received: 15.09.2025
Revised: 26.02.2026
Accepted: 30.04.2026
Published: 29.05.2026

Journal homepage: https://phelr.com.ua/en

UDC 341.01:327.7

DOI: 10.63341/2786-491X-2026-1-63

The transformation of the international legal order under multipolarity: Competing governance models of the US, China, and the EU

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Abstract. The aim of the study was to identify the legal mechanisms through which competition between the United States, China and the EU is altering the substance and institutional implementation of international law. The methodology was based on conceptual-legal, formal-legal, doctrinal-legal, comparative-legal and comparative analysis methods, applied to the study of the international legal order and models of global governance of the United States of America, China and the EU. On the basis of international legal instruments, strategic and conceptual documents of the United States of America, China and the EU, official materials and specific legislation, it has been established that, in a multipolar world, international law retains its significance as a common language of legitimacy; however, the ways in which it is interpreted, applied and institutionally reproduced are determined by competition between various centres of normative influence. Competition between these actors alters the international legal order not through a rejection of international law, but through different ways of interpreting, applying and institutionally reproducing it. The American model exacerbates the fragmentation of the legal order by extending the category of "rules" beyond formally binding international law to include sanctions, secondary restrictions, export controls and coalition mechanisms. Key trends in the transformation of the Chinese model have been identified, linked to the prioritisation of sovereignty, non-interference, development, institutional representation of non-Western states, and opposition to extraterritorial sanctions. It has been demonstrated that the European model influences the international legal order through the juridification, institutionalisation and external dissemination of digital, climate, trade and human rights standards. An analysis of the practical manifestations of these models has revealed their differing legal natures: the US employs coercive normative influence, China utilises domestic anti-sanctions mechanisms with external effects, and the EU relies on the regulatory diffusion of norms through access to the European market. The study has shown that the international legal order of the 21st century is becoming polycentric, as normative, interpretative and institutional power is being redistributed among the American, Chinese and European models of global governance. The practical significance lies in the possibility of using the results to analyse sanctions policy, digital regulation, the reform of international institutions and the legal assessment of models of global governance

Keywords: sanctions regimes; normative influence; export control; extraterritoriality; digital regulation

Introduction

The international order of the 21st century is evolving amid intensifying competition between several centres of power, which influences the ways in which international legal norms are formed, interpreted and applied. The universal legal framework of international relations retains its significance, yet its principles are interpreted through various models of security, development, technological regulation and institutional influence. Competition between leading actors affects not only foreign policy strategies but also the ways in which the international order is legally justified. As a result, a contradiction arises between the formal preservation

Suggested Citation:
Mehmeti, R.M. (2026). The transformation of the international legal order under multipolarity: Competing governance models of the US, China, and the EU. *Philosophy, Economics and Law Review*, 6(1), 63-77. doi: 10.63341/2786-491X-2026-1-63.

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of common principles of international law and their differing substantive interpretations in the American, Chinese and European models of global governance.

In the academic literature, changes to the international order are examined through several interrelated lines of analysis. A study by M. Velliet (2025) found that US export controls have gradually shifted from a logic of non-proliferation and law enforcement to a logic of strategic competition with China. This indicates that US technology regulation is becoming not only a tool of national security, but also a means of restricting competitors' access to critical technologies. J. Angelo's (2025) work establishes that export controls can be used by the US for the purposes of non-military strategic competition, including the regulation of artificial intelligence (AI), quantum technologies and next-generation communication networks. The American model demonstrates the expansion of national legal instruments beyond the scope of traditional arms control and their incorporation into a broader regime of technological containment.

Contemporary Chinese theories of the international order, as identified by H. Xiong *et al*. (2024), do not merely reject Western approaches, but form their own understanding of the global system, based on historical experience, political pluralism, state sovereignty and the representation of non-Western actors. The authors demonstrated that the Chinese approach broadens the analysis of the international order beyond a Western-centric framework, as it views it not only as a system of rules but also as the result of the distribution of power, hierarchy and competition among different political and civilisational centres. T. Harper's (2025) study supplemented this conclusion by demonstrating that the Chinese model of development and governance shapes an alternative conception of the global order through infrastructural connectivity, development initiatives and a focus on the states of the Global South. The Chinese model is not aimed at the complete destruction of the existing order, but seeks to alter the distribution of influence within it, offering a competing means of legitimising global governance.

According to J. Miró (2023), the concept of open strategic autonomy has become a way for the EU to rethink globalisation, external dependencies and the Union's role in the context of geopolitical competition. The European model of global governance is viewed not only as normative or law-centred, but also as a model of adaptation to a multipolar environment, where international law is complemented by instruments of sustainability, strategic autonomy and regulatory protection. The work by A. Bendiek & I. Stuerzer (2023) demonstrates that the "Brussels effect" (the external diffusion of EU standards beyond its market) is based not only on the size of the EU's internal market, but also on the political capital arising from European coordination procedures and legal certainty. This allows the EU to be viewed as a competing model of global governance that transforms the international legal order not through sanctions-based coalition pressure or sovereignist revisionism, but through the external diffusion of legal and technical standards.

In a study by B. Maksuti (2026), using the examples of Albania and North Macedonia, it was found that even with a shared orientation towards European integration, the outcomes of rapprochement with the EU may vary due to domestic political conditions, institutional stability and external factors. This demonstrates that the external projection of European standards is not automatic – its external impact depends on the ability of partner states to perceive, adapt and institutionally embed European standards. In the Western Balkans, as established by A. Semenov (2025), the EU's conditionality policy faces a decline in trust in the outcomes of European integration, the influence of geopolitical factors, and a shift from transformational reforms to a more pragmatic logic of engagement. The EU retains the ability to shape standards and conditions for convergence, yet its normative influence becomes less stable where incentives linked to European integration are perceived as insufficiently defined, and other external actors offer alternative formats for political and economic cooperation.

Existing studies reveal individual aspects of American technology and sanctions policy, the Chinese interpretation of sovereignty, and European regulatory power; however, they do not sufficiently demonstrate how these approaches relate to one another as competing legal mechanisms for altering the content of international law, the hierarchy of its principles, and the institutional forms of its implementation. The aim of this study was therefore to establish the influence of the American, Chinese and European models of global governance on the relationship between international law, sovereignty, security, development, sanctions instruments and regulatory standards. To achieve this aim, the following tasks were set: to distinguish between the "international legal order" and the "rules-based international order" as different categories of analysis of international law and politico-normative rules; to compare the American, Chinese and European models of global governance in terms of sources of legitimacy, attitudes towards sovereignty, the role of institutions and their transformative effect on the international legal order; to analyse, on the basis of practical examples, the impact of the American, Chinese and European models of global governance on the international legal order through sanctions, technological, anti-extraterritorial, digital and climate-related instruments.

Materials and Methods

The study was qualitative in nature and was based on the application of conceptual-legal, formal-legal, doctrinal-legal, comparative-legal and comparative analysis to examine the legal transformation of the international order in the context of competition between the American, Chinese and European models of global governance. Using the method of conceptual-legal analysis, the transformation of the international legal order was interpreted on the basis of a distinction between the categories of "international legal order" and "rules-based international order". The choice of these categories is due to the fact that they reflect the distinction between international law as a system of legally binding norms and a broader politico-normative construct encompassing alliance commitments, institutional practices, standards of conduct and strategic expectations. The works of P. Gewirtz (2024), M. Trachtenberg (2025), and L. Vinjamuri *et al.* (2025) were used as the theoretical and legal basis for distinguishing between the categories of "international legal order" and "rules-based international order", as well as for the subsequent comparison of the American, Chinese and European models of global governance. Their analysis made it possible to identify the distinction between international law as a system of legally binding norms and a broader political-normative framework encompassing institutional practices, alliance commitments, standards of conduct and competing conceptions of international legitimacy.

A formal-legal method was employed to analyse the normative sources enshrining the basic principles of the international legal order. The Charter of the United Nations (1945), the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations (1970), and the Helsinki Final Act (1975) were considered as the normative basis for defining the content of the sovereign equality of states, the prohibition of the use of force, the peaceful settlement of disputes, non-interference, territorial integrity, international cooperation and respect for international obligations. An analysis of these documents enabled the formulation of a legal criterion against which the American, Chinese and European models of global governance were subsequently compared, and their impact on the transformation of the international legal order was assessed.

Using a method of doctrinal and legal analysis, this study examines the American, Chinese and European models of global governance as distinct approaches to the legal construction of the international order, thereby identifying the internal legal logic of each model. The choice of the US, China and the EU is based on the fact that they act as independent centres of normative influence in a multipolar world: the American model is associated with the expansion of the category of a rules-based international order, the Chinese model with the priority of sovereignty, non-interference and institutional revisionism, and the European model with centre-right multilateralism and the regulatory dissemination of standards. Strategic and conceptual documents from the US, China and the EU, including the National Security Strategy of the United States (2022), the Global Security Initiative and the Global Governance Initiative (Ministry of Foreign Affairs of the People's Republic of China, 2023a; 2025) A strategic compass for security and defence (Council of the European Union, 2022), were used to identify the doctrinal approaches of the relevant actors to the international order, sovereignty, security, development, multilateralism and strategic competition. Regulatory acts, including Article 21 of the Treaty on European Union (2008), the Rules on Countering the Unlawful Extraterritorial Application of Foreign Laws and Other Measures (Order of The Ministry of Commerce of the People's Republic of China No. 1, 2021), and the Anti-Foreign Sanctions Law of the People's Republic of China (2021), were used to analyse the legal instruments for implementing these models. Analytical studies and reports, including M. Grajewski (2023), European Parliamentary Research Service (2024), and M.T. Fravel (2025) were used for a comparative interpretation of the influence of these models on the transformation of the international legal order.

Using the method of comparative legal analysis, the American, Chinese and European models of global governance were compared with the aim of identifying the differences between them. The comparison was conducted according to the following criteria: basic normative formula, source of legitimacy, main object of normative protection, main instruments of influence, attitude towards sovereignty, role of the UN, legal vulnerability, and transformative effect on the international legal order. These criteria were chosen because they allow the models to be compared not as foreign policy strategies, but as different approaches to the legal construction of the international order.

The practical manifestations of the American, Chinese and European models of global governance are compared using the method of comparative analysis. For each model, examples were selected that reflect a characteristic instrument of influence on the international legal order: for the US – sanctions pressure and export controls (Bureau of Industry and Security, 2024); for China – countering unilateral sanctions (Ministry of Foreign Affairs of the People's Republic of China (2023b) and the promotion of a security concept based on sovereignty and non-interference. For the EU – digital (European Commission, 2024) and climate regulation (European Commission, 2026). For the EU, a section of the CMS (2024) analytical report is additionally utilised, as it reflects not the creation of a new legal regime, but the practical application of existing data protection standards. The selection of these examples is based on the fact that they reflect different ways of practically influencing the international legal order: coercive normative pressure, challenging extraterritoriality, and the regulatory extension of standards. This made it possible to correlate the theoretically identified models with their practical manifestations and to determine through which legal, economic and technological instruments they influence the international legal order. The limitations of the study stem from its theoretical and analytical nature and the lack of comprehensive coverage of the positions of other participants in the international legal order. Furthermore, the study focuses on the normative and legal dimension of the transformation of the international legal order and does not include a quantitative assessment of the effectiveness of the instruments under consideration.

Results

Competing models of global governance in the international legal order

The transformation of the international legal order in the 21st century is taking place whilst its basic normative framework remains intact. The international legal order is viewed as a system of principles, norms and institutions governing the interaction between states and other subjects of international law. It is founded on the principles of the sovereign equality of states, the prohibition of the use of force, the peaceful settlement of disputes, non-interference and international cooperation, as enshrined in the Charter of the United Nations (1945), the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations (1970) and the Helsinki Final Act (1975). In the classical understanding, such an order is based on a combination of state sovereignty and legal constraints arising from obligations to maintain international peace, observe international law and participate in multilateral cooperation.

In a multipolar world, differences lie not in the recognition of these principles, but in the way they are interpreted, prioritised and institutionally implemented. The US, China and the EU define the relationship between international law, sovereignty, security, development and legitimacy in different ways. Consequently, the transformation of the international legal order manifests itself through competition between models of global governance, within which various centres of normative influence shape different approaches to the substance of international obligations, permissible instruments of influence, and the role of international institutions.

A comparison of the categories "international legal order" and "rules-based international order" has revealed a distinction between legally binding norms of international law and the broader political-normative framework of global governance. The international legal order is based on legally binding norms enshrined in the Charter of the United Nations (1945), international treaties, customary international law and general principles of law. The rules-based international order is a less well-defined category, as it may include, alongside norms of international law, political commitments, institutional practices, alliance arrangements, standards of conduct and strategic expectations (Trachtenberg, 2025). Competition over such an order therefore reflects not only a dispute over existing international law, but also a struggle to define the content of international "rules", criteria of legitimacy, and the authority of institutions to interpret the international order (Vinjamuri *et al*., 2025).

This distinction is particularly evident when analysing the American model of global governance. It is based on a broader understanding of the category of "rules", extending beyond the scope of formally binding international law. In this model, legally binding norms coexist with political commitments, allied coordination, sanctions mechanisms, export controls, technological security and coalition-based regulatory frameworks. As a result, the international legal order becomes more fragmented and polycentric, as parallel regimes of normative influence, based on strategic compatibility, economic security and coalition solidarity, emerge alongside universal international legal norms (Gewirtz, 2024).

The American model of international order is based on an expanded understanding of normativity: the category of "rules-based international order" encompasses not only formally binding sources of international law, but also political, institutional, alliance-based and strategic rules. In this respect, it differs from the category of "international legal order", as it links international legitimacy not only to law, but also to American leadership and the Western institutional architecture (Trachtenberg, 2025). From the perspective of classical international law, such an expansion of the normative framework creates tension between the universal principles of the international legal order and politically selective criteria of legitimacy. The Charter of the United Nations (1945) and the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations (1970) enshrine the sovereign equality of states, the prohibition of the use of force, non-interference, the peaceful settlement of disputes and cooperation among states as the foundations of the international legal order. The American model does not formally reject these principles, but supplements them with criteria of democracy, allied solidarity, open markets, technological reliability, and the containment of states regarded as revisionist. Consequently, international legitimacy is determined not only by compliance with universal international law, but also by a state's inclusion in a broader political-normative order, shaped predominantly within Western and coalition frameworks.

The legal and political significance of this approach lies in the fact that the international order is interpreted not only as a set of universal norms, but also as an institutional and value-based configuration linked to American leadership, a system of alliances and strategic coordination. The main contradiction of the American model lies in the fact that the category of "rules" proves to be broader than that of "law": legally binding norms coexist with political commitments, coalition standards, sanctions practices, export controls and mechanisms of strategic deterrence (Trachtenberg, 2025). This blurs the line between norms based on universal consent among states and rules that acquire practical binding force through the economic, institutional and coalition power of the US and its allies (Hopewell, 2022; Gewirtz, 2024).

In the American model, sanctions policy, export controls and trade and technology restrictions serve as instruments for implementing an expanded understanding of international "rules". Unilateral restrictive measures, secondary sanctions and extraterritorial regulatory instruments are used as means of exerting normative pressure on states, companies and intermediaries from third countries (U.S. Department of the Treasury, 2024). Export controls and technology restrictions are used to limit the access of certain states and associated entities to sensitive US technologies (Bureau of Industry and Security, 2024). The legal issue is that measures based on US national jurisdiction acquire a transnational effect and impact entities outside US territory. In the field of international economic law, this means that trade and technology regulation are used not only to organise exchange, but also as instruments of economic coercion, strategic pressure and the formation of selective access hierarchies (Hopewell, 2022).

Consequently, the American model transforms the international legal order by extending the scope of the international order beyond formal international law and shifting rule-making to allied, coalition and national frameworks. Its key effect is that legally binding norms begin to coexist with political rules, sanctions regimes, export controls and mechanisms of strategic deterrence. This exacerbates the fragmentation of the legal order, as parallel normative regimes based on coalition solidarity, strategic compatibility and economic security emerge alongside universal norms. For US allies, including the EU, this model creates a derivative legal effect: participation in sanctions regimes, export controls and technological restrictions becomes a means of integration into the American architecture of the normative order. In a multipolar world, the American model simultaneously upholds and redefines the international legal order, transforming it into an arena of contestation over the content, source and limits of global rules.

The Chinese model of the international order represents an interpretation of international law in which priority is given to sovereignty, non-interference, the equality of states, the peaceful settlement of disputes, and the central role of the UN. These principles are enshrined in the Charter of the United Nations (1945) and elaborated upon in the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations (1970). The Chinese approach does not deny this legal framework, but alters the hierarchy of its elements: sovereignty and non-interference are viewed as limits on external political pressure, unilateral sanctions, bloc discipline and the universalisation of liberal-democratic standards (Ministry of Foreign Affairs of the People's Republic of China, 2023a; Gewirtz, 2024). The legal significance of this approach lies in the fact that China uses the language of the UN Charter not to replace international law with a different system of legitimacy, but to justify a state-centred interpretation of the international order. According to this logic, the legitimacy of international action is determined primarily by respect for sovereignty, the absence of external coercion, and the recognition of the formal equality of states. A state's status under international law is separated from the assessment of its domestic political regime, whilst the principle of non-interference takes on a restrictive function in relation to sanctions mechanisms and politically conditioned terms of cooperation (Ministry of Foreign Affairs of the People's Republic of China, 2023a; Fravel, 2025).

This position finds practical expression in anti-sanctions and blocking mechanisms aimed at limiting the effect of foreign restrictive measures and the extraterritorial application of other states' national legislation. The rules on countering the unlawful extraterritorial application of foreign legislation and other measures provide for an assessment of foreign regulations in terms of their compliance with international law, their impact on China's sovereignty, security and development interests, as well as their consequences for Chinese citizens and organisations (Order of The Ministry of Commerce of the People's Republic of China No. 1, 2021). The Anti-Foreign Sanctions Law of the People's Republic of China (2021) enshrines the possibility of applying countermeasures against individuals and organisations involved in the drafting, adoption or implementation of discriminatory restrictive measures against China, its citizens and organisations. Consequently, the Chinese model is implemented not only as a doctrinal appeal to sovereignty and non-interference, but also as a normative mechanism for countering foreign sanctions and the extraterritorial application of other states' national legislation.

Development also takes on legal and political significance within the Chinese model. Reform of global governance is presented as a process of enhancing the fairness, inclusivity and representativeness of the international system (Ministry of Foreign Affairs of the

People's Republic of China, 2025). Development is viewed not only as an object of international cooperation, but also as a criterion for the legitimacy of the international order. Economic growth, infrastructure connectivity and the increased participation of non-Western states are becoming the basis for a re-evaluation of the distribution of influence within global governance institutions. The Chinese model is therefore institutionally revisionist in nature: it does not reject existing international institutions, but challenges the distribution of interpretative power within them and the parameters of legitimate global governance (Fravel, 2025). Unlike the American model, China is transforming the international legal order not by expanding the scope of coalition "rules", but by altering the hierarchy of existing principles of international law. Sovereignty, non-interference, development and institutional representativeness are put forward as the foundations of international legitimacy, whereas the Western model of a rules-based order is viewed as a mechanism for maintaining asymmetric normative influence (Gewirtz, 2024). At the same time, the Chinese model contains an internal legal contradiction: sovereignty and non-interference function not only as universal principles, but also as instruments for limiting external pressure on issues affecting security, territorial interests and regional influence. Consequently, the Chinese model transforms the international legal order not by rejecting international law, but by altering the hierarchy of its principles. The Chinese approach is revisionist but not anti-legal: it retains a commitment to the UN Charter and international law, yet challenges the Western interpretation of legitimacy, particularly regarding unilateral sanctions, extraterritorial jurisdiction, bloc politics and the universalisation of liberal-democratic standards. Its transformative effect lies in the fact that international law becomes a space of competition not only for compliance with norms, but also for determining which principles should take precedence in global governance.

The European model of the international order is characterised as a law-centred and institutional-regulatory model of global governance. In this model, the EU's external action is linked to international law, multilateral institutions, human rights, the rule of law and procedural legitimacy. Article 21 of the Treaty on European Union (2008) stipulates that the Union's external action is based on the principles of democracy, the rule of law, the universality and indivisibility of human rights, and respect for the UN Charter and international law. The legitimacy of the EU's foreign policy derives not from global leadership or anti-hegemonic revisionism, but from compliance with legal principles, institutional procedures and multilateral commitments. In contrast to the American approach, in the European model the concept of a "rules-based order" is much more closely linked to international law, the central role of the UN and effective multilateralism (European External Action Service, 2016).

The legal significance of this model lies in the fact that the international order is reproduced not only through the recognition of universal norms, but also through institutions, procedures and coordination mechanisms. The EU links the stability of the international legal order to institutional predictability and procedural decision-making, seeking to limit unilateral behaviour by states through international organisations, treaty regimes and multilateral mechanisms (European External Action Service, 2025). At the same time, the European model influences the international legal order through the dissemination of its own legal and regulatory standards. Consequently, the EU exerts external normative influence not only through support for international institutions, but also through standards, trade relations and institutional forms of cooperation (European External Action Service, 2016). This creates an internal legal tension within the European model. On the one hand, the EU reinforces the importance of international law, human rights, procedural transparency, and environmental and digital standards. On the other hand, the dissemination of norms formed within the EU legal order raises the question of the limits of their external universalisation, since access to the market, institutional proximity or deeper cooperation may depend on the adoption of standards developed within the Union itself. This mechanism can be explained by the "Brussels effect": EU norms acquire transnational significance either through their voluntary extension by companies to global operations, or through the adoption of similar standards by third countries (European Parliamentary Research Service, 2024).

In a multipolar world, the EU is adapting its rule-of-law-centred model to an environment of strategic competition. The concept of strategic autonomy reflects the Union's desire to retain the capacity to formulate foreign policy, economic and regulatory decisions independently, although this autonomy is constrained by the structural impact of US-China rivalry (Council of the European Union, 2022; Grajewski, 2023). Consequently, the European model transforms the international legal order through the juridification, institutionalisation and transnational dissemination of regulatory standards. Unlike the American model, the EU links the rules-based order more closely to international law, multilateral institutions and procedural legitimacy. Unlike the Chinese model, it does not regard sovereignty as the primary limit on external normativity, as it links international legitimacy to human rights, the rule of law, and environmental and digital standards. The transformative effect of the European model lies in the fact that the EU's regional normative system acquires global significance and becomes one of the mechanisms for regulating international relations, whilst the international legal order gains a more pronounced regulatory and institutional structure.

Legal models of global governance in the transformation of the international legal order

In a multipolar world, the transformation of the international legal order manifests itself through the coexistence and competition of various models of global governance, which define the relationship between international law, sovereignty, security, development and legitimacy in different ways (Table 1).

Table 1. Comparative characteristics of the US, Chinese and EU models of global governance

Criterion	US	China	EU
Basic normative formula	Rule-based international order	Sovereignty, non-interference, development, reform of global governance	International law, effective multilateralism, human rights
Source of legitimacy	Leadership, alliances, democracy, security of the order	Sovereign equality, political pluralism, development, anti-hegemony	Law, institutions, human rights, procedural legitimacy
Main object of normative protection	Stability of the existing order and the alliance system	State sovereignty and equitable development	The universality of international law and institutional predictability
Main instruments of influence	Alliances, sanctions, export controls, trade and technology restrictions	Security, development and global governance reform initiatives	Treaties, standards, conditionality policies, trade and digital regulation
Relationship to sovereignty	Recognised, but balanced against security and political compatibility	Regarded as a primary norm and a limit on external interference	Limited by international obligations, human rights and supranational coordination
Role of the UN	Support whilst maintaining scope for unilateral and coalition action	Support for the UN as a universal and anti-hegemonic platform	Support for the central role of the UN and multilateral institutions
The main legal vulnerability	Selective application of rules, extraterritoriality, blurring of the line between law and "rules"	Selective use of sovereignty and the limited scope of the human rights dimension	Limited strategic autonomy and dependence in the security sphere
Transformative effect on the international legal order	Extends the scope of "rules" beyond formal international law	Shifts the hierarchy of principles in favour of sovereignty, non-interference and development	Transforms the legal order through the regulatory dissemination of norms, standards and procedures

Source: compiled by the author based on Treaty on European Union (2008), National Security Strategy of the United States (2022), Council of the European Union (2022), K. Hopewell (2022), M. Grajewski (2023), Ministry of Foreign Affairs of the People's Republic of China (2023a; 2025), European External Action Service (2016; 2025), M.T. Fravel (2025), L. Vinjamuri *et al.* (2025), M. Trachtenberg (2025)

A comparison of the three models has shown that their differences concern not only foreign policy objectives, but above all the methods of legal construction of the international order. The American model exacerbates the fragmentation of the international legal order to the greatest extent, as it extends the scope of political and normative "rules" beyond the bounds of formally binding international law and relies on coalition-based, sanctions-based and extraterritorial mechanisms. The Chinese model proposes institutional revisionism; it does not reject international law or the central role of the UN, but seeks to alter the hierarchy of its principles in favour of sovereignty, non-interference, development and broader representation of non-Western states. The European model largely retains a universalist commitment to international law, multilateral institutions and procedural legitimacy, yet simultaneously reinforces regulatory fragmentation through the external dissemination of its own standards. Consequently, the transformation of the international legal order under multipolarity is expressed not in its destruction, but in the redistribution of normative power among various centres of power, which define the content of legitimacy, permissible regulatory mechanisms and the priority principles of global governance in different ways. It is also worth examining the practical manifestations of the American, Chinese and European models of global governance in contemporary international relations (Table 2).

Table 2. Comparative characteristics of the empirical manifestations of competing models of global governance

Actor, period	Practical manifestation of the global governance model	Instrument of influence	Significance for the transformation of the international legal order
USA, 2024	Sanctions pressure on companies and intermediaries from third countries involved in circumventing restrictions against Russia	Sanctions, secondary restrictions, transnational pressure	The external effects of US national sanctions and their use as an instrument of normative pressure

Table 2. Continued

Actor, period	Practical manifestation of the global governance model	Instrument of influence	Significance for the transformation of the international legal order
USA, 2024	Restricting access by Russia, China, Iran and associated entities to sensitive US technologies	Export controls, Entity List, technology restrictions	Use of technology regulation as a security tool and to restrict competitors' access to sensitive technologies
China, 2023	Countering unilateral sanctions and the extraterritorial jurisdiction of foreign states	Anti-sanctions stance, criticism of extraterritorial jurisdiction, appeal to sovereignty and non-interference	Limiting the extraterritorial effect of national sanctions regimes by invoking sovereignty, non-interference and international law
	Formulation of an alternative security concept based on sovereignty, non-interference, dialogue and rejection of bloc logic	Sovereignty, non-interference, common security, dialogue	Presents an alternative security model opposed to bloc logic, unilateral sanctions and external political pressure
EU, 2024, full implementation – 2026	Creation and phased introduction of a unified risk-based legal framework for AI regulation	Digital regulation, risk-based approach, AI standards	The EU's ability to set digital standards with potential external effects
EU, 2023-2026	Phased introduction of a carbon border adjustment mechanism linking the access of carbon-intensive goods to the EU market to their production emissions	Climate regulation, carbon requirements for imports	External dissemination of EU environmental standards through trade regulation

Note: the examples provided do not constitute an exhaustive description of the foreign policy practices of the US, China and the EU, but are used as analytical illustrations of the legal mechanisms for transforming the international legal order

Source: compiled by the author based on Ministry of Foreign Affairs of the People's Republic of China (2023a; 2023b), U.S. Department of the Treasury (2024), Bureau of Industry and Security (2024), European Commission (2024; 2026)

The legal risks of the American model lie primarily in the fact that secondary sanctions and extraterritorial export controls create a situation of competing jurisdictional requirements. Entities in third countries, which are not formally subject to US domestic law, find themselves compelled to take US restrictions into account due to the risk of losing access to the US financial system, market, technologies or supply chains. This gives rise to legal uncertainty, reinforces private-sector compliance with sanctions regimes and blurs the distinction between a state's domestic jurisdiction and international legal regulation. As a result, US national measures acquire an external normative effect without universal international consensus and without mandatory institutional enshrinement within the UN framework.

The Chinese model operates differently: the PRC's anti-sanctions legislation establishes a domestic legal mechanism to counter foreign restrictive measures, yet simultaneously has an external normative effect. The rules on countering the unlawful extraterritorial application of foreign legislation and the PRC Law on Countering Foreign Sanctions translate the doctrinal appeal to sovereignty and non-interference into a system of legal prohibitions, countermeasures and legal consequences for persons involved in the implementation of foreign sanctions. In doing so, China uses domestic law as a tool to protect against external sanctions pressure and, at the same time, as a means of challenging the legitimacy of other states' extraterritorial measures.

The European model disseminates its own standards through a different legal mechanism – conditional access to the EU internal market. The EU's digital, climate, trade and human rights requirements acquire external significance when third states, foreign companies or transnational supply chains are forced to adapt to European rules in order to retain access to the Union's market. In this case, EU norms are not imposed as universal international law, but effectively become transnational standards of conduct through market conditionality, regulatory compatibility and the enforcement practices of European institutions.

CMS (2024) deserves special mention, as this source reflects not the creation of a new legal regime, but the practice of applying the existing EU General Data Protection Regulation. It records the consistent enforcement activities of European regulators in relation to companies, including major technology platforms. This confirms that European data protection standards function not only as a normative model but also as a mechanism of regulation that is actually applied. Consequently, these empirical manifestations reveal three distinct mechanisms of transformation of the international legal order. The US influences it through coercive sanctions and technological restrictions; China through challenging extraterritoriality, defending sovereignty and promoting an alternative concept of security; and the EU through the regulatory expansion of digital, environmental and human rights standards. Their overall analytical value lies in the fact that they demonstrate the practical manifestation of multipolarity: the international legal order is changing not in the abstract, but through the specific legal, economic and technological instruments of various centres of power.

The transformation of the international legal order in a multipolar world is manifested not in the disappearance of international law, but in changes to the ways in which it is interpreted, applied and institutionally reproduced. The 21st-century system is becoming more polycentric, fragmented and competitive. International law retains its significance as a common language of legitimacy; however, different centres of power are increasingly defining the content of legitimacy, the hierarchy of principles, the limits of sovereignty and the permissible instruments of normative influence in different ways. The US, China and the EU demonstrate three different models of such a transformation. The American model transforms the international legal order by extending the category of "rules" beyond formally binding international law, relying on coalition frameworks, sanctions pressure, export controls and technological containment. The Chinese model transforms the international legal order by reordering its principles: sovereignty, non-interference, development, political pluralism and broader representation of non-Western states in global governance institutions are brought to the fore. The European model transforms the international legal order through the legalisation, institutionalisation and external dissemination of regulatory standards, including digital, climate, trade and human rights regulation.

Empirical examples confirm that this is not merely a matter of foreign policy competition, but also of the legal transformation of the international order. US sanctions, secondary restrictions and export controls demonstrate how national legal instruments acquire a transnational effect and begin to function as a means of international normative pressure. China's criticism of extraterritorial jurisdiction and unilateral sanctions demonstrates a desire to limit the extraterritorial effect of national sanctions regimes by invoking the principles of sovereignty, non-interference and the central role of the UN. European instruments reveal a different mechanism of transformation: norms formed within the EU legal order acquire external significance through access to the European market and become part of the global regulatory space.

The competition between these models affects not only the rhetoric of international law, but also the institutional reproduction of the international legal order. For the US, the UN retains its significance as a universal framework of legitimacy; however, practical regulation is increasingly shifting to coalition, sanctions and technological regimes operating in parallel with universal institutions. China, by contrast, invokes the central role of the UN as the basis for criticising unilateral sanctions, bloc logic and extraterritorial jurisdiction, but at the same time seeks to alter the distribution of influence within existing institutions of global governance. The EU supports the UN and multilateral institutions as the basis for procedural legitimacy, yet supplements universal international legal mechanisms by extending its own regulatory standards externally. Therefore, the institutional transformation of the international legal order is expressed not in a rejection of the UN, but in competition over which institutions, procedures and legal regimes will determine the substance of international legitimacy in a multipolar world.

Consequently, the international legal order of the 21st century is becoming not post-legal, but polycentric. Its stability depends not on a return to a unipolar model, nor on the replacement of universal institutions with competing blocs, but on the ability to preserve a common international legal framework whilst simultaneously adapting global governance institutions to a more pluralistic and multipolar international system. Multipolarity redistributes normative and interpretative power among various centres of power, transforming the international legal order into a space of competition between the American coalition-sanctions model of a rules-based order, the Chinese model of sovereign institutional revisionism, and the European model of centre-right regulatory multilateralism.

Discussion

The findings of the study have shown that the transformation of the international legal order does not signify the disappearance of international law, but is expressed in a change in the ways in which it is interpreted, applied and institutionally reproduced. This conclusion is consistent with the position of R. Vos *et al*. (2021), who viewed the international legal order as a system that remains significant for maintaining international peace and security, but which is under pressure amid shifts in the global balance of power, growing challenges to existing norms, and the strengthening role of non-Western states. Similarly, in the work of D.L. Sloss (2022), the analysis focuses not on the uncompleted collapse of the international order, but on the aggregate of threats to the rules-based international order; it is emphasised that this order faces challenges but is not yet in a state of complete collapse. The findings of this study confirm the thesis regarding the crisis in the international legal order, whilst simultaneously clarifying its nature, demonstrating that this crisis manifests itself not only in the weakening of universal norms or international institutions, but primarily in the redistribution of normative and interpretative authority amongst several centres of power. In contrast to approaches by authors who emphasise the general pressure on the international legal order, this study considers multipolarity as a legal reconfiguration of the international legal order, manifested in the competition between American, Chinese and European models of global governance. This conclusion also aligns with the study by K.M. Osland & M. Peter (2021), who, using the example of UN peacekeeping operations, demonstrated that in a multipolar environment, international institutions are compelled to adapt to a more complex environment by prioritising the rule of law and "bottom-up" approaches. The work by T. Wijaya & K. Jayasuriya (2024) analyses the formation of a new multipolar order through combined development, changes in state forms, the emergence of new business classes and competing regulatory spaces. This study expands on this line of thought: multipolarity has not only institutional or political-economic significance, but also international legal significance, as it alters who determines the content of international legitimacy, the limits of sovereignty, the permissibility of economic coercion, and the forms of global governance, and how this is done.

In K. Hopewell's (2021) study, the crisis of the liberal trading order is linked to a shift in the US's role within the international trading system. The author demonstrates that the US has moved away from its former role as a multilateral leader and has employed unilateral trade measures that have complicated the functioning of World Trade Organisation mechanisms, including the trade dispute settlement system. This study finds that the American model has a broader transformative effect – it operates not only through trade measures, but also through sanctions, export controls, coalition frameworks, and trade and technology restrictions. This study therefore builds on the conclusion of K. Hopewell, viewing the crisis of the liberal trade order as part of a broader transformation of the international legal order, within which economic and technological instruments acquire normative significance and influence the conditions of participation of states and companies in the international order.

J. Schmidt's (2022) work analyses the legality of unilateral extraterritorial sanctions as a distinct issue of international law, linked to the limits of jurisdiction, sanctions regulation and the principle of non-interference. The findings of this study align with this position, as the American model is also examined through the transnational effect of US national legal instruments and their impact on third states, companies and intermediaries. At the same time, this study expands upon J. Schmidt's approach: extraterritoriality is viewed not only as a question of the legality of individual sanction measures, but also as a mechanism for transforming the international legal order, through which the American model turns national legal regimes into instruments of international normative pressure. H.G. Cohen's (2024) study found that states resort to measures at the intersection of trade and security, including sanctions, tariffs, export controls, foreign investment screening and subsidies, whilst the rules governing their application remain insufficiently defined. V.K. Aggarwal & A.W. Reddie (2024) examined a new economic state strategy as the use of trade and investment instruments for foreign policy objectives, which places pressure on international economic institutions. The work by G. Felbermayr *et al*. (2021) systematises interdisciplinary approaches to the analysis of economic sanctions, their causes, consequences and effectiveness. The authors' conclusions correspond with the findings of this study, as sanctions, export controls and trade and technology restrictions were examined as interrelated instruments of the American model. However, this study offers a different level of generalisation: such measures are analysed not only as instruments of economic policy or security, but also as elements of the American model for transforming the international legal order, reinforcing the blurring of the boundary between law, security and economic coercion.

The findings of the study revealed that the Chinese model does not reject the international legal order, but rather redefines the hierarchy of its principles in favour of sovereignty, non-interference, development and institutional representation of non-Western states. This is comparable to the work of S. Seppänen & E. Smith (2025), which analysed the new Chinese doctrine of non-interference. The authors demonstrated that the Chinese approach to non-interference is not limited to the classical understanding of this principle, but takes on a more contextual character, depending on the subject, form and purpose of the interference. This helps to clarify the findings of the present study: non-interference in the Chinese model functions not only as a principle of the UN Charter, but also as a legal argument against external political pressure and interference in a state's internal affairs. In the work of J. deLisle (2024), this conclusion is supplemented through an analysis of sovereignty as a consistent category in the Chinese approach to international law. Sovereignty occupies a central place in Chinese international legal argumentation, although its content and significance have varied across different periods and subject areas. This corresponds with the findings of the present study, as the Chinese model has been identified as sovereignist but not anti-legal – it does not replace international law with a completely alternative system, but utilises existing principles of international law, primarily sovereign equality and non-interference, to challenge Western interpretations of legitimacy.

In the study by M.S. Erie (2023), China's outward-oriented legal regulation is examined as a reform aimed at modernising the intersection of Chinese domestic law, foreign policy and international law; however, it is noted that it remains more of a politico-legal discourse than a fully defined policy. Z.J. Wang & J. Chen (2025) have traced the evolution of this concept, its transformation into an element of national strategy, and its role in international affairs amidst geopolitical competition. These works refine the findings of the present study: the Chinese model encompasses not only the protection of sovereignty and non-interference, but also the development of outward-looking legal instruments through which China operates in a context of global competition. At the same time, a comparison of these approaches reveals that the degree of institutionalisation of the Chinese model is assessed differently in the literature: M.S. Erie presents it primarily as a political-legal discourse, whereas Z.J. Wang & J. Chen view it as an element of an emerging state strategy. Therefore, in this study, the Chinese model is considered not merely as a foreign policy stance, but as a means of legally constructing the international order, combining doctrinal arguments, anti-sanction mechanisms and strategic positioning.

K.J. Alter's (2025) study examines export controls from a historical and contemporary perspective within the context of US-China relations in the 21st century. The author found that US restrictions on advanced semiconductors and related technologies reflect the extension of export controls to areas where the direct military application of the technologies is not always obvious; however, control over such technologies is viewed as part of US policy towards China. This conclusion clarifies the technological dimension of the American model identified in this study: whilst the author analyses export controls primarily in the context of US-China relations, this study considers them as one of the tools of a broader transformation of the international legal order. At the same time, the impact of export controls is not unambiguous. In a study by Y. Peng (2025), based on US sanctions against the Chinese semiconductor industry, it is demonstrated that external pressure may not only restrict China's access to technology but also stimulate the development of its own domestic semiconductor industry. This helps to clarify the findings of the present study: export controls serve as an instrument of normative and strategic regulation, yet their impact is not limited to directly restricting a competitor's technological development. D. Woods (2025), having analysed China's response to the tightening of US technological controls, demonstrates that a further escalation of such measures could lead to a departure from a unified global technological network and the formation of a more polarised structure of the US and Chinese technological spheres. Consequently, export controls in the American model can simultaneously serve as an instrument of normative pressure and a factor in technological fragmentation and regulatory tensions.

In the work by A. Bradford (2023), global competition between the US, China and the EU in the regulation of the digital economy is examined through the concept of "digital empires". The EU is presented as a rights-oriented regulatory model, that is, as an actor exerting influence primarily through legal standards, regulation and market access, rather than through military or sanctioning power. This approach allows the findings of A. Bradford to be correlated with the results of the present study: the European model has also been characterised as rights-centred and institutional-regulatory. At the same time, this study broadens this focus, as it examines the European model not only in the sphere of digital regulation, but also as part of a broader transformation of the international legal order, encompassing climate, trade and human rights regulation.

A study by A. Steinbach (2023) analyses the EU's shift towards strategic autonomy in the context of geopolitical rivalry, supply chain vulnerabilities and technological change. The author demonstrates that strategic autonomy expands the scope for the EU to act independently, but simultaneously creates points of tension with EU law and international law. This conclusion is comparable to the findings of the present study, in which the European model was presented as dual: on the one hand, the EU maintains its commitment to international law, multilateralism and procedural legitimacy; on the other hand, it adapts its law-centred model to the conditions of strategic competition. Therefore, this study views strategic autonomy not as the EU's rejection of legal logic, but as a means of adapting it to a more competitive international environment. B. Crum (2025) examined the EU AI Act by comparing the "Brussels effect" with experimental governance. The author demonstrated that the external effect of the EU AI Act can be explained not as the automatic spread of a European standard, but as a more open and experimental process of interaction between different regulatory approaches. M. Almada & A. Radu (2024), in turn, demonstrated that the spread of the EU AI Act as a global standard may have unintended consequences and even limit the global reach of EU policy in the field of artificial intelligence. These works refine the findings of the present study: the European model does indeed transform the international legal order through the external diffusion of standards, yet this process is neither automatic, homogeneous, nor fully controlled by the EU itself. This is where the present study differs from a simplistic understanding of the "Brussels effect": European norms are viewed not only as an instrument of global influence, but also as a source of regulatory tensions in a multipolar world.

In this study, linking market access for carbon-intensive goods to the EU market to account for carbon emissions during their production was examined as an example of the external diffusion of EU environmental standards through trade regulation. This finding is comparable to the work of L. Durel (2024), in which border carbon adjustment is analysed through the lens of its compatibility with World Trade Organisation rules. The significance of such instruments extends beyond the trade and economic sphere, as they affect perceptions of permissible forms of climate regulation in international economic law. The work of S. Otto (2025), in turn, refined this conclusion: the political reactions of third countries to the EU's carbon border adjustment mechanism show that the external impact of European environmental standards is not an automatic or unilateral process. In contrast to the findings of this study, which emphasises the external diffusion of EU standards through trade regulation, the works of these authors highlight the reciprocal aspect of this process – adaptation, resistance and reinterpretation by other participants in the international order. Therefore, the European model transforms the international legal order through regulatory standards; however, such transformation depends not only on EU norms, but also on their perception, contestation and practical application outside the Union. Consequently, multipolarity does not abolish international law, but alters the conditions for its interpretation and application. The international legal order retains its significance as a common normative framework, but operates in a context of competition between the American, Chinese and European models of global governance.

Conclusions

The study has established that the international legal order of the 21st century is developing amidst a complex balance of power and intensifying normative competition. Its normative foundation is linked to international law, the UN Charter, and the principles of sovereign equality, non-interference, peaceful settlement of disputes, and international cooperation. However, the ways in which these principles are understood vary across different centres of power. Multipolarity does not eliminate international law from the system of international relations, but alters the conditions under which it operates. International law continues to function as a universal legal language, but no longer has a single centre of interpretation. In these circumstances, competing models of global governance become a means of shaping different conceptions of international legitimacy. Distinguishing between the categories of "international legal order" and "rules-based international order" is necessary for assessing the transformation of the legal order. The international legal order is primarily associated with legally binding norms, whereas a rules-based order also encompasses political, institutional and strategic rules. The American model demonstrates the expansion of the scope of international "rules" beyond the classical sources of international law. This model utilises alliance mechanisms, sanctions policy, export controls and technological restrictions. As a result, US national and coalition instruments acquire a transnational normative effect. The Chinese model is built on an emphasis on sovereignty, non-interference, the equality of states and the central role of the UN. It does not reject international law, but shifts the emphasis within its principles. Within the Chinese approach, development, institutional representativeness and criticism of extraterritorial sanction mechanisms are incorporated into the argument for reforming the international legal order.

The European model is based on the rule of law, multilateral institutions, human rights and procedural legitimacy. The EU influences the international legal order by extending its own regulatory standards in the digital, climate, trade and human rights spheres. A comparison of the three models shows that the transformation of the international legal order occurs through different mechanisms: sanctions-based and coalition-driven influence, a sovereignist reinterpretation of principles, and the regulatory dissemination of standards. Competing models of global governance manifest themselves not only at the level of doctrinal approaches, but also through specific legal, economic and technological instruments used by the US, China and the EU to influence the international legal order. Consequently, the sustainability of the international legal order in the 21st century depends on whether universal principles of international law can retain their regulatory significance in a context where the US, China and the EU interpret their content, priorities and methods of application differently. Future research would be well advised to focus on the conditions under which competing models of global governance remain compatible within a single international legal order. A separate strand of such analysis could address the question of international legal mechanisms capable of curbing fragmentation and maintaining a common normative framework in a multipolar world.

Acknowledgements

None.

Funding

None.

Conflict of Interest

None.

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Трансформація міжнародного правового порядку в умовах багатополярності: конкуруючі моделі управління США, Китаю та ЄС

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Анотація. Метою дослідження було виявлення правових механізмів, за допомогою яких конкуренція між США, Китаєм та ЄС змінює зміст та інституційне втілення міжнародного права. Методологія базувалася на концептуально-правових, формально-правових, доктринально-правових, порівняльно-правових та порівняльних методах аналізу, застосованих до вивчення міжнародного правового порядку та моделей глобального управління США, Китаю та ЄС. На основі міжнародно-правових документів, стратегічних та концептуальних документів США, Китаю та ЄС, офіційних матеріалів та конкретного законодавства встановлено, що в багатополярному світі міжнародне право зберігає своє значення як спільна мова легітимності; однак способи його тлумачення, застосування та інституційного відтворення визначаються конкуренцією між різними центрами нормативного впливу. Конкуренція між цими суб'єктами змінює міжнародний правовий порядок не шляхом відмови від міжнародного права, а через різні способи його тлумачення, застосування та інституційного відтворення. Американська модель посилює фрагментацію правового порядку, розширюючи категорію «правил» за межі формально обов'язкового міжнародного права, включаючи до неї санкції, вторинні обмеження, експортний контроль та механізми коаліцій. Визначено ключові тенденції трансформації китайської моделі, пов'язані з пріоритетом суверенітету, невтручанням, розвитком, інституційним представництвом не західних держав та протидією екстериторіальним санкціям. Доведено, що європейська модель впливає на міжнародний правовий порядок через юридизацію, інституціоналізацію та зовнішнє поширення стандартів у сферах цифрових технологій, клімату, торгівлі та прав людини. Аналіз практичних проявів цих моделей виявив їхню різну правову природу: США застосовують примусовий нормативний вплив, Китай використовує внутрішні антисанкційні механізми із зовнішніми ефектами, а ЄС покладається на регуляторне поширення норм через доступ до європейського ринку. Дослідження показало, що міжнародний правовий порядок 21 століття стає поліцентричним, оскільки нормативна, інтерпретаційна та інституційна влада перерозподіляється між американською, китайською та європейською моделями глобального врядування. Практичне значення полягає в можливості використання отриманих результатів для аналізу санкційної політики, регулювання цифрової сфери, реформування міжнародних інституцій та правової оцінки моделей глобального врядування

Ключові слова: санкційні режими; нормативний вплив; експортний контроль; екстериторіальність; регулювання цифрової сфери

ISSN 2786-491X, e-ISSN 3083-7472

Philosophy, Economics and Law Review

Vol. 6. No. 1. 2026
Received: 28.10.2025
Revised: 23.03.2026
Accepted: 30.04.2026
Published: 29.05.2026

Journal homepage: https://phelr.com.ua/en

UDC 327.8:341(477:73)

DOI: 10.63341/2786-491X-2026-1-78

The legal public diplomacy of the President of Ukraine during the full-scale Russian aggression in the context of Ukrainian-American relations

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Abstract. The full-scale Russian aggression against Ukraine has increased the importance of legal argumentation in international political communication and transformed public diplomacy into an important instrument of international legitimisation and strategic mobilisation. Under these conditions, the legal public diplomacy of the President of Ukraine acquired particular significance in strengthening international democratic solidarity and support for the rules-based international order, including within Ukrainian-American relations. The aim of the article was to determine the principal instruments, functions and political significance of the legal public diplomacy of the President of Ukraine during the full-scale Russian aggression and to clarify its role in strengthening international democratic and legal solidarity, with particular emphasis on the Ukrainian-American dimension. The methodological framework combined qualitative content analysis, discourse analysis, framing analysis and the comparative method. It has been established that legal discourse became one of the central components of the wartime public diplomacy of the President of Ukraine. References to international law, sovereignty, territorial integrity, war crimes and international accountability were systematically employed to legitimise Ukraine's position and delegitimise Russian aggression. The study demonstrated that legal public diplomacy contributed to strengthening democratic solidarity between Ukraine and the United States by framing the war as a global challenge to international legality and collective security. It has also been determined that legal public diplomacy functioned as a distinct form of strategic communication combining legal legitimisation, political mobilisation and strategic narrative construction. The practical significance of the study consisted in the possibility of applying its findings within international relations, strategic communication, public diplomacy and international law for analysing legal narratives and mechanisms of international legitimisation during contemporary armed conflicts

Keywords: international law; strategic communication; presidential diplomacy; democratic solidarity; legal narratives; rules-based order; accountability for aggression

Introduction

The full-scale Russian aggression against Ukraine has become one of the most serious challenges to the international legal order and the post-Cold War security architecture. The war has intensified debates concerning the effectiveness of international law, collective security mechanisms and the rules-based international order. Under these conditions, public diplomacy has acquired exceptional strategic importance as states increasingly compete for international legitimacy, political solidarity and normative authority within the global communicative space. Legal argumentation has become a central component of such communication, serving to legitimise political positions, delegitimise aggression and mobilise international support. In this context, the legal public diplomacy of the President of Ukraine has emerged as an important instrument for strengthening international democratic solidarity, particularly within Ukrainian-American relations.

Suggested Citation:
Vysotskyi, O. (2026). The legal public diplomacy of the President of Ukraine during the full-scale Russian aggression in the context of Ukrainian-American relations. *Philosophy, Economics and Law Review*, 6(1), 78-90. doi: 10.63341/2786-491X-2026-1-78.

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The issue of wartime public diplomacy and strategic communication has attracted considerable scholarly attention in recent years. Japanese researchers M. Matsuoka & R. Matsuoka (2022) analysed Volodymyr Zelenskyy's address to the Japanese parliament and concluded that emotional solidarity, symbolic identification and the personalisation of political communication became central mechanisms of Ukrainian wartime diplomacy. According to the authors, the President of Ukraine successfully adapted rhetorical strategies to the historical memory and cultural context of the target audience, thereby increasing the effectiveness of communicative influence. M. Karmazina (2024) examined the diplomatic activity of Volodymyr Zelenskyy during the first months of the full-scale invasion and emphasised the role of political subjectivity, symbolic resistance and anti-colonial narratives in shaping Ukraine's international image. The researcher concluded that wartime presidential diplomacy transformed into a mechanism for consolidating both domestic and international political support.

O. Koptiev (2023) investigated public diplomacy as an instrument of Ukraine's foreign policy and demonstrated that strategic communication became an important factor in strengthening Ukraine's international position during the war. Particular attention was devoted to digital diplomacy and the transformation of communication technologies under conditions of military conflict. M. Trofymenko (2025) analysed public diplomacy in the context of Ukraine's national security and argued that international communication during wartime performs not only informational but also strategic-security functions. The researcher emphasised that public diplomacy contributes to the formation of international coalitions and strengthens political resilience under conditions of external aggression.

Several studies have focused specifically on the public diplomacy of the President of Ukraine during the period of full-scale war. O. Vysotskyi (2024) analysed the metamodern features of Volodymyr Zelenskyy's public diplomacy and argued that the President of Ukraine combined irony, emotional sincerity and strategic seriousness within a new communicative model adapted to the conditions of wartime political communication. The existing body of scholarship has made an important contribution to understanding various dimensions of Ukrainian wartime public diplomacy and legal communication. Nevertheless, the available studies tend to focus on particular legal initiatives, communicative campaigns or thematic aspects of presidential diplomacy. The concept of democratic solidarity in Ukrainian presidential diplomacy has also attracted scholarly attention. O.Y. Vysotskyi (2025) examined the representation of American leadership in Volodymyr Zelenskyy's public diplomacy during the presidency of Joseph Biden and demonstrated that the Ukrainian president consistently portrayed the United States as the principal defender of democracy and international law. According to the researcher, this communicative strategy contributed to strengthening bipartisan support for Ukraine within the American political system. Author analysed Ukrainian anti-Americanism during the full-scale war and concluded that the public diplomacy of the President of Ukraine played an important role in preventing the spread of anti-American narratives within Ukrainian society despite periods of political disagreement between Kyiv and Washington. A comprehensive analysis of legal public diplomacy as an integrated strategic instrument operating through legal narratives, international legitimacy and democratic solidarity, with particular emphasis on the Ukrainian-American dimension, remains limited. This gap determines the relevance of the present study. The aim of the article was to determine the content, principal instruments and functions of the legal public diplomacy of the President of Ukraine during the full-scale Russian aggression and to clarify its role in strengthening international democratic and legal solidarity, with particular emphasis on Ukrainian-American relations, through appeals to the norms and principles of international law and the rules-based international order.

Materials and Methods

The methodological framework of the study was based on an interdisciplinary approach combining the theoretical instruments of international relations, public diplomacy studies, strategic communication research and international legal analysis. Such an approach makes it possible to examine the legal public diplomacy of the President of Ukraine not only as a communicative phenomenon but also as a mechanism for constructing international legitimacy, mobilising political support and shaping normative interpretations of the Russian-Ukrainian war within the framework of the international legal order. The conceptual foundation of the research relied upon contemporary approaches to public diplomacy, strategic narratives and legal communication in international politics developed in the works of J. Melissen (2005), J. Nye (2005), A. Miskimmon *et al.* (2017), N. Cull (2019), A. Miskimmon & B. O'Loughlin (2026) as well as studies devoted to lawfare and legal diplomacy (Dunlap, 2008; Kittrie, 2016).

Within the framework of the present study, legal public diplomacy was interpreted as a form of strategic international communication in which legal norms, principles, institutions and categories are systematically employed to legitimise political positions, delegitimse violations of international law, mobilise international support and construct mechanisms of international accountability. Such an understanding makes it possible to distinguish legal public diplomacy from broader moral, emotional or value-based rhetoric. Whereas moral rhetoric primarily appeals to ethical values and humanitarian solidarity, legal public diplomacy is based upon references to international legal norms, the Charter of the United Nations, international criminal responsibility, sovereignty, territorial integrity and mechanisms of legal accountability. Consequently, the analytical focus of the study was concentrated specifically on legal argumentation and legal framing in the wartime communication of the President of Ukraine.

The empirical basis of the research consisted of official speeches, public addresses and statements delivered by President Volodymyr Zelenskyy between February 2022 and March 2025 and retrieved from the official website of the President of Ukraine (Address by President of Ukraine Volodymyr Zelenskyy to American students…, 2022). The selection of empirical materials was based on several criteria. First, the analysed speeches had to contain explicit references to international law, legal responsibility, international tribunals, sovereignty, territorial integrity or the rules-based international order. Second, the speeches had to be directed toward international audiences capable of influencing political decision-making concerning support for Ukraine. Third, the selected materials had to possess significant political and communicative resonance within the international public sphere. The corpus of analysed materials included the address delivered at the joint session of the United States Congress on 22 December 2022 (Speech by the President of Ukraine at the Riksdag…, 2022), speeches before the United Nations Security Council (I propose to convene the global peace formula…, 2022), addresses to the Group of Seven (It is necessary that Russia stops killing people…, 2022), speeches before the parliaments of Sweden and Denmark (We stand, we fight and we will win…, 2022), communications with American academic audiences (Freedom must always prevail when challenged…, 2023) and official statements concerning the establishment of a special tribunal regarding the crime of aggression against Ukraine. In addition, official documents related to the activities of the Coalition of States ("Core Group") concerning the establishment of the special tribunal were examined. The empirical materials were collected primarily from the official website of the President of Ukraine, official international institutional sources and publicly accessible governmental documents.

The methodological design of the study combines several complementary qualitative research methods. The principal method employed in the research is qualitative content analysis. This method made it possible to identify recurring legal concepts, normative categories and communicative patterns within the speeches of the President of Ukraine. Particular attention was devoted to the frequency and contextual use of references to sovereignty, territorial integrity, aggression, international criminal responsibility, the Charter of the United Nations, democracy, freedom and the rules-based international order. Content analysis also facilitated the identification of dominant legal narratives and strategic communicative priorities within Ukrainian wartime diplomacy. The application of content analysis corresponds to contemporary approaches in political communication research emphasising the importance of systematic textual examination for identifying latent political meanings and ideological structures (Krippendorff, 2019).

Discourse analysis constituted another important methodological instrument of the study. The use of discourse analysis made it possible to examine the mechanisms through which legal meanings, political legitimacy and collective identities are constructed in presidential communication. Particular attention was devoted to the discursive construction of Ukraine as an active subject of international law defending not only its own sovereignty but also the broader international legal order. Simultaneously, the discourse analysis enabled the examination of mechanisms for delegitimising Russian aggression through references to war crimes, terrorism, genocide and violations of international law. The methodological use of discourse analysis is based upon approaches developed within critical discourse studies and international political communication research, according to which political language functions not merely as a descriptive instrument but also as a mechanism for constructing social and political reality (Fairclough, 2010).

An important component of the methodological framework is framing analysis. The framing approach made it possible to determine how the President of Ukraine structured interpretative schemes concerning the Russian-Ukrainian war for international audiences, particularly for the United States political establishment and American society. Framing analysis focused on identifying dominant interpretative frames employed within legal public diplomacy, including the "defense of democracy", "protection of international law", "collective security", "accountability for aggression" and "shared democratic solidarity". The methodological application of framing analysis relies upon the theoretical assumptions developed by R. Entman (1993), according to which political communication influences international perception through the selection and emphasis of particular interpretative elements.

Elements of the comparative method were employed to examine legal narratives and communicative patterns across presidential speeches delivered to different international audiences. Particular attention was devoted to identifying variations in the use of legal argumentation in communications addressed to American political institutions, international organisations and foreign parliaments. Comparative observations facilitated a more nuanced understanding of the contexts in which references to international law, democratic solidarity, accountability and collective security were employed. This approach contributed to the interpretation of the role of legal public diplomacy within broader international communication and, in particular, within the Ukrainian-American dimension. To strengthen the analytical validity of the study, elements of source triangulation were employed through the combined examination of presidential speeches, official statements and international legal documents related to accountability for the crime of aggression against Ukraine. Particular attention was devoted to materials concerning the establishment of a special tribunal and related international initiatives. Such an approach helped to reduce the limitations associated with the analysis of a single category of sources and provided a broader contextual understanding of the legal narratives employed in presidential public diplomacy.

The study additionally relies upon a broad range of scholarly literature devoted to wartime public diplomacy, strategic narratives, political legitimacy, lawfare and international communication. Particular importance was attached to recent studies analysing the wartime communication of Volodymyr Zelenskyy and the transformation of public diplomacy under conditions of full-scale war. The incorporation of contemporary theoretical and empirical studies contributed to the conceptualisation of legal public diplomacy as a distinct communicative phenomenon situated at the intersection of international law, strategic communication and international political legitimacy. The methodological limitations of the study should also be acknowledged. The research primarily focuses on qualitative analysis of political communication and therefore does not provide a quantitative assessment of the direct influence of legal narratives on American public opinion or foreign policy decision-making. Furthermore, the complexity of international political processes makes it difficult to isolate the impact of legal argumentation from broader geopolitical, strategic and domestic political factors influencing United States support for Ukraine. Nevertheless, the selected methodological framework makes it possible to comprehensively analyse the structure, functions and political significance of legal public diplomacy under conditions of contemporary interstate war.

Results

The analysis demonstrated that the legal public diplomacy of the President of Ukraine functioned as a systematic international communicative activity aimed at forming broad international support for Ukraine among democratic states and international institutions, including within the framework of Ukrainian-American relations. In legal public diplomacy oriented towards the American target audience, Volodymyr Zelenskyy positioned Ukraine not as a victim but as an active subject of international law that defends its own sovereignty: "Our country will never be a victim again. It will not just be an observer of life – including its own life. We can, want to and will be subjects in life" (Address by President of Ukraine Volodymyr Zelenskyy to American students…, 2022). Here the President of Ukraine rejects the narrative portraying Ukraine as a victim of aggression and instead presents the state as an active subject of international law defending its sovereignty. This distinction reflects the fundamental principles of international law, in particular the sovereign equality of states and the right of self-defence in accordance with the Charter of the United Nations. By emphasising subjectivity, Volodymyr Zelenskyy constructs a narrative in which Ukraine's resistance represents not only national survival but also the defence of the legal principle that states have the right to determine their political existence.

Addressing the American public, Volodymyr Zelenskyy employed legal reasoning in international politics and resorts to the argument of precedent: "There is case law in your country. If once – even a long time ago – a decision was made at the appropriate level by a proper court, similar cases are decided according to this precedent. This is always taken into account. The same is true, in fact, in international politics" (Address by President of Ukraine Volodymyr Zelenskyy to American students…, 2022). The president deliberately refers to the American doctrine of judicial precedent, which constitutes the foundation of the United States legal system, interpreting international politics through a legal analogy. The essence of this form of message lies in the idea that geopolitical events function in a manner similar to legal precedents: if a violation remains unpunished, it becomes a model for future behaviour. This rhetorical strategy represents a paradigmatic manifestation of legal public diplomacy, as it frames geopolitical events through a legal lens.

Using legal discourse, Volodymyr Zelenskyy interpreted Russia's aggression as a dangerous international precedent: "What is Russia doing now? It is trying to set a precedent. If it manages to break the statehood of the neighboring nation, other states will do the same" (Address by President of Ukraine Volodymyr Zelenskyy to American students…, 2022). Here the Ukrainian president directly applies the analogy of precedent to the international system. The destruction of Ukrainian statehood would create a normative precedent for aggressive war, effectively undermining the prohibition on the use of force established by the Charter of the United Nations. Such an argument shifts attention from a regional conflict to a systemic threat to the international legal order. The message to the American audience is clear: if aggression proves successful, the norm prohibiting territorial conquest may be violated across the world. Volodymyr Zelenskyy interprets Ukraine's resistance to the aggressor, supported by its partners, as a counter-precedent: "What is Ukraine doing now with its partners? Trying to set another precedent. So that all the aggressors in the world once and for all see that the war will create the biggest problems for them – for the aggressors" (Address by President of Ukraine

Volodymyr Zelenskyy to American students…, 2022). This statement expresses one of the core concepts of legal public diplomacy under conditions of war: the creation of a precedent with a deterrent effect. Ukraine and its partners are portrayed as the creators of a new norm in international relations, according to which aggression leads to serious political, economic and legal consequences. The statement indirectly refers to mechanisms such as sanctions, international criminal prosecution and diplomatic isolation. As a result, American support is presented as necessary for the creation of a new precedent concerning the enforcement of law within the international legal system.

The President of Ukraine emphasised the role of the United States in protecting international law: "There are states that contribute as much as possible to protect freedom. To stop the aggression. To guarantee the force of international law. It is this role that the United States has chosen" (Address by President of Ukraine Volodymyr Zelenskyy to American students…, 2022). This statement clearly positions the United States as a guarantor of the international legal order. Volodymyr Zelenskyy acknowledges the United States for supporting the observance of international law, thereby reinforcing the idea that American leadership is necessary for the preservation of global stability. In the context of Ukrainian-American relations, this constitutes a classic example of strategic public diplomacy: by praising the United States as a defender of international law, Volodymyr Zelenskyy encourages further cooperation and leadership. The President of Ukraine calls into question the legitimacy of neutrality under conditions of aggression: "There are states that are trying to stay away. Be supposedly neutral. And not help fight for our common values" (Address by President of Ukraine Volodymyr Zelenskyy to American students…, 2022). The President equates geopolitical neutrality with moral passivity, comparing it to observers who witness injustice without intervening. From the perspective of international law, this argument indirectly refers to the collective responsibility of states to defend the principles of the Charter of the United Nations, in particular the prohibition of aggressive war. Thus, the speech establishes a normative expectation that democratic states should actively support the observance of international law.

Volodymyr Zelenskyy clearly defined international assistance as a legal and normative investment in the rules-based international system: "Every decision to protect Ukraine and freedom guarantees the preservation of the international rules-based order" (We need global leadership of democracy…, 2023). The president emphasises that each concrete decision – military, economic or political – strengthens the global legal framework regulating interstate behaviour: "As a house grows from bricks, so does freedom grow from our decisions – we guarantee it" (We need global leadership of democracy…, 2023). The metaphor of building freedom "brick by brick" emphasises the cumulative nature of law enforcement in international relations. For the United States during the presidency of Joe Biden, this argument aligned the defence of Ukraine with longstanding objectives of American foreign policy: the maintenance of a stable rules-based international order. Volodymyr Zelenskyy explicitly recognises the United States as the central leader of the democratic coalition supporting Ukraine: "I am grateful to the United States and all Americans for the large-scale military and economic support as well as the support with sanctions. The US has united the free world and established a solid foundation of our security solidarity" (I propose to convene the global peace formula summit…, 2022). This diplomatic acknowledgement served two purposes. It reinforced the perception of the United States as a guarantor of international law and democratic security, while also strengthening the political legitimacy of continued American support. In the context of Ukrainian-American relations, such recognition constitutes a strategic component of legal public diplomacy aimed at sustaining bipartisan support in the United States.

An important step within the framework of the legal public diplomacy conducted by the Ukrainian president was the initiation of the creation of a tribunal concerning Russian aggression. The issue was first raised by Volodymyr Zelenskyy exactly one month after the beginning of the full-scale Russian aggression, on 24 March 2022, during a speech to the Riksdag of Sweden. At that time, the Ukrainian president emphasised: "Those who gave the order to kill and those who killed must face the Tribunal. So that no other country in the world thinks that it can kill people with impunity just like that, that it can destroy neighboring countries" (Speech by the President of Ukraine at the Riksdag…, 2022). At the same time, the head of the Ukrainian state already realised that the work of such an institution might take years: "An international tribunal? They know that it takes years to bring specific perpetrators to justice" (Speech by President of Ukraine Volodymyr Zelenskyy in Folketing, 2022). During the conduct of his legal public diplomacy, the President of Ukraine raises the issue of Russian responsibility for genocidal political communication, the essence of which lies in the structured, deliberate and systematic use of language aimed at legitimising and normalising killings, state aggression and their consequences, the use of weapons to resolve political issues, the seizure of the territories of other sovereign states and objects of civilian infrastructure, the deportation of populations, violations of fundamental human rights, the deterioration of living conditions on the planet, and the destruction of ethnic groups and peoples. Speaking before the Parliament of Romania in April 2022, Volodymyr Zelenskyy referred to a publication disseminated by the Russian state news agency RIA Novosti as evidence of narratives aimed at denying Ukrainian statehood and identity, arguing that such materials could serve as evidence in future proceedings against Russian war criminals. Russian official and semi-official narratives frequently contained openly revisionist and dehumanising representations of Ukrainian statehood and identity, which further reinforced the legal and moral arguments employed in the President of Ukraine's public diplomacy.

On 5 April 2022, Volodymyr Zelenskyy, at a meeting of the UN Security Council, stated that a tribunal concerning Russian war crimes in Ukraine should be analogous to the Nuremberg Tribunal. "Immediately bring the Russian military and those who gave them orders to justice for war crimes in Ukraine. Everyone who gave criminal orders and fulfilled them by killing people will face a tribunal similar to the Nuremberg trials. I want to remind Russian diplomats that a man like von Ribbentrop has not avoided punishment after World War II. And I also want to remind the architects of Russia's criminal policy that punishment has reached Adolf Eichmann as well. None of the culprits will escape. No one" (Speech by the President of Ukraine at a meeting…, 2022), emphasised the President of Ukraine.

Already on 29 June 2022, in the address to the UN Security Council, Volodymyr Zelenskyy called for the establishment of a special international tribunal to investigate the actions of the Russian occupiers on Ukrainian soil, as the UN Security Council had done in the case of the genocide in Rwanda. This Organisation "already has enough power to bring a terrorist state to justice. Chapter VII of the UN Charter allows for the establishment of a special international tribunal to investigate the actions of the Russian occupiers on Ukrainian soil. The word "genocide" has repeatedly been used. And you all saw what the Russian occupiers did in our city of Bucha. Each of you can obtain information on how many mass graves appeared around the city of Mariupol alone after the Russian army rased it to the ground. It was a city of half a million residents! Now there are ruins. In the case of the genocide in Rwanda, the UN Security Council established an International Tribunal within six months since the beginning of the genocide" (It is necessary that Russia stops killing people…, 2022), emphasised the president.

While conducting public legal diplomacy, Volodymyr Zelenskyy explained to the international community the expediency of establishing a special tribunal concerning Russian aggression. Volodymyr Zelenskyy stated: "…the existing judicial institutions for jurisdictional reasons cannot bring to justice all those guilty of the primary crime of aggression. That is why we need a Special Tribunal regarding this crime – Russian aggression against Ukraine. A Tribunal that will ensure the fair and lawful punishment of those who started this history of disasters and tragedies, which has become the biggest war in Europe since World War II. Our efforts will be enough to record the crimes of the Russian occupiers; to gather all the evidence so that it is absolutely admissible in the courts; to establish each of the guilty. However, those people whose decisions led to this array of crimes must not hide behind the so-called immunity of officials. The principle of inevitability of punishment must also apply to these people. And this can only be ensured by the Special Tribunal on Aggression against Ukraine" (All Russian criminals…, 2022).

Already on 9 May 2023, the Coalition of States ("Core group") for the establishment of the tribunal was officially formed, whose representatives stated that "those responsible for committing the crime of aggression against Ukraine must not go unpunished, and call on the international community to consider appropriate actions, including through the establishment of an appropriate justice mechanism to ensure effective accountability for the crime of aggression, which is of concern to the international community as a whole. We therefore support exploring the creation of a tribunal to ensure effective accountability for the crime of aggression against Ukraine" (Joint statement on efforts…, 2023). As of April 2024, the Coalition of States ("Core group") for the establishment of the tribunal included 44 countries, namely: Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, the Netherlands, New Zealand, North Macedonia, Norway, Poland, Portugal, Romania, San Marino, Slovenia, Spain, Sweden, Ukraine, Britain and the United States (Yemets, 2024).

In Strasbourg on 19-21 March 2025, the participants of the Coalition of States (Core Group) held their final, fourteenth meeting. The coalition's legal experts completed the technical work on three draft documents necessary for the establishment of the special tribunal concerning the crime of aggression against Ukraine: the draft bilateral agreement between Ukraine and the Council of Europe on the establishment of the special tribunal, the draft statute of the special tribunal, and the draft enlarged partial agreement on the administration of the special tribunal. The special tribunal is planned to be established within the framework of the Council of Europe with a mandate to prosecute high-ranking political and military leaders for the crime of aggression against Ukraine. This crime concerns the decision to use armed force against another state, which constitutes a violation of the Charter of the United Nations. One of the most vivid episodes of the legal public diplomacy of the President of Ukraine during the full-scale Russian aggression in the context of Ukrainian-American relations was the speech on 22 December 2022 at a joint session of both chambers of the United States Congress. It performed several functions, including the legitimisation of Ukraine's cause within the framework of the international legal order, the consolidation of the transatlantic democratic coalition led by the United States, the presentation of American assistance as a strategic investment in the international legal order, and the mobilisation of political support in the United States Congress by embedding the Ukrainian struggle within American historical memory and identity.

The central task of Volodymyr Zelenskyy's legal public diplomacy was the construction of a shared political identity between Ukraine and the United States. From the very beginning, Volodymyr Zelenskyy addressed Americans not merely as an external audience but as members of a common normative community: "Dear Americans! In all states, cities and communities. All those who value freedom and justice. Who cherish it as strongly, as we, Ukrainians, in all our cities, in each and every family. I hope my words of respect and gratitude resonate in each American heart!". Such wording transforms Ukraine's struggle from a regional conflict into a collective democratic cause. The Ukrainian president clearly formulates a triadic coalition: "… We are united. Ukraine, America and the entire free world". This is undoubtedly an effective narrativisation of identity formation, representing Ukraine not as a peripheral partner but as an integral part of the global liberal-democratic order led by the United States. From the perspective of international law, the speech indirectly refers to the principle of collective defence, linking the defence of Ukraine with the protection of the global normative system. The speech notes that Ukraine's war is aimed at the defence of international law: "The restoration of international legal order is our joint task" (We stand, we fight and we will win…, 2022). Rather than presenting Ukraine's war solely as national self-defence, Volodymyr Zelenskyy defines it as a struggle for the restoration of the international legal system violated by Russian aggression.

The Ukrainian president repeatedly emphasises the unique role of the United States in defending the normative order: "Americans gained this victory – and that's why you have succeeded in uniting the global community to protect freedom and international law" (We stand, we fight and we will win…, 2022). Here Volodymyr Zelenskyy attributes leadership in the defence of the international legal order to the United States, which corresponds to America's traditional self-perception as a guarantor of global legality since the end of the Second World War. The significance of this speech by the President of Ukraine in the context of legal public diplomacy is determined by the fact that it corresponded to the fundamental norms of international law, in particular the prohibition of aggression under the Charter of the United Nations, the territorial integrity of states, and responsibility for international crimes. "…To ensure that America's leadership remains solid, bicameral and bipartisan… You can strengthen sanctions to make Russia feel how ruinous its aggression truly is. It is in your power to help us bring to justice everyone, who started this unprovoked and criminal war" (We stand, we fight and we will win…, 2022).

The principal pragmatic objective of this speech by the President of Ukraine was to secure continued military support from the United States. Volodymyr Zelenskyy carefully interprets assistance not as charity but as a collective defence of the international system. The concise phrase clearly expresses this principle: "Your money is not charity. It's an investment in the global security and democracy…" (We stand, we fight and we will win…, 2022). Such wording reconceptualises United States support as strategic, mutually beneficial and consistent with American national interests. Volodymyr Zelenskyy also addresses concerns regarding escalation by emphasising Ukraine's self-reliance: "Ukraine never asked the American soldiers to fight on our land instead of us" (We stand, we fight and we will win…, 2022). This was undoubtedly intended to reassure American policymakers that support for Ukraine does not imply direct United States military intervention, which in turn was an important factor for maintaining bipartisan consensus. The speech of the President of Ukraine was also directed towards the normative delegitimisation of Russia: "It would be naive to wait for steps towards peace from Russia – which enjoys being a terrorist state" (We stand, we fight and we will win…, 2022).

By describing Russia as a terrorist actor, the Ukrainian president sought to legitimise the establishment of legal responsibility and the strengthening of sanctions against it, as well as continued military assistance to the Ukrainian state. It is important that Volodymyr Zelenskyy positions Ukraine as a responsible actor committed to the lawful resolution of the conflict, thereby strengthening its diplomatic legitimacy. Presenting a structured peace plan – the Ukrainian Peace Formula – Volodymyr Zelenskyy advanced a concrete legal diplomatic initiative consisting of ten points in accordance with the norms of international law and the fundamental provisions of the Charter of the United Nations: "Ukraine has already offered proposals, which I just discussed with President Biden – our Peace Formula. Ten points, which should and must be implemented for our joint security – guaranteed for decades ahead… Each of you, ladies and gentlemen, can assist in its implementation – to ensure that America's leadership remains solid…" (We stand, we fight and we will win…, 2022).

During the conduct of legal public diplomacy before an American audience, the President of Ukraine repeatedly positions Russian aggression as a challenge to the post-war international legal order, of which the United States was one of the principal architects and guarantors: "2022 turned out to be the year when one of the biggest enemies of freedom, with its all out, unjust, and unprovoked war, tried to smash everything built up since the Berlin Wall fell" (Freedom must always prevail when challenged, 2023). Here Volodymyr Zelenskyy employs legal discourse. "Unjust, and unprovoked war" constitutes a direct reference to the concept of the crime of aggression in international criminal law. The semantic formulation "everything built up since the Berlin Wall fell" refers to the liberal international order based on state sovereignty, the inviolability of borders and human rights. Thus, Ukraine is presented as a bastion of international law, and United States support as the defence of the global legal order.

An important aspect of the legal public diplomacy of the President of Ukraine has been the delegitimisation of the aggressor through the construction of the image of Russia as a systemic threat to international law: "Russia's war on Ukraine isn't just about some old-fashioned dictatorship trying to settle scores, real or imagined… It's Putin attacking that big shift that happened back in 1989". Two dimensions of legal interpretation are employed here. First, Russia is portrayed as a revisionist of the international order, a state seeking to dismantle the security system that emerged after the Cold War. Second, responsibility for aggression, war crimes and violations of international humanitarian law is personalised: "Putin's crafting his own ideology, and at its core is complete disregard for human life, for freedom, and for respecting any kind of borders – between countries, between people, even between truth and lies" (Freedom must always prevail when challenged, 2023).

Discussion

The results of the present study demonstrated that the legal public diplomacy of the President of Ukraine during the full-scale Russian aggression constitutes a distinct and increasingly important form of strategic international communication situated at the intersection of public diplomacy, strategic narratives and international legal legitimisation. The analysis indicated that legal discourse in Ukrainian presidential communication performs not merely a declarative or symbolic function but also operates as an instrument for constructing political legitimacy, mobilising international support and reinforcing the normative foundations of the rules-based international order. In this respect, the Ukrainian case significantly expands existing theoretical understandings of wartime public diplomacy and demonstrates the growing role of international legal argumentation within contemporary global political communication.

The findings of the study generally corresponded to contemporary approaches to public diplomacy emphasising the transformation of diplomacy under conditions of globalisation, digital communication and international political interdependence. The present findings support the arguments of previous researchers concerning the growing importance of public communication in contemporary diplomacy. However, the Ukrainian case demonstrates that under conditions of full-scale interstate war public diplomacy extends beyond informational and image-building functions and increasingly incorporates legal argumentation as an independent mechanism of international legitimisation. N.J. Cull (2019) argued that public diplomacy increasingly functions through communicative interaction with foreign audiences rather than through traditional interstate diplomatic channels alone. Similarly, J. Melissen (2005) emphasised that modern diplomacy has become deeply interconnected with symbolic politics, public narratives and media communication. The legal public diplomacy of the President of Ukraine illustrates this transformation particularly clearly, as presidential communication became an essential mechanism for influencing international political discourse and shaping foreign perceptions of the Russian-Ukrainian war.

At the same time, the Ukrainian case demonstrates several important features distinguishing wartime legal public diplomacy from traditional models of public diplomacy. Classical approaches to public diplomacy often focus primarily on cultural attraction, national image promotion and soft power resources. In contrast to J.S. Nye (2005) emphasis on attraction and soft power resources, the present study demonstrates that legal legitimacy may itself function as a strategic resource of influence during wartime. Therefore, the Ukrainian experience expands traditional interpretations of soft power by highlighting the political significance of legal narratives and accountability mechanisms. The present study demonstrates that under conditions of large-scale interstate war, public diplomacy increasingly acquires legal-security dimensions. In the speeches of President Volodymyr Zelenskyy, legal argumentation was systematically employed to frame the Russian invasion not merely as a bilateral regional conflict but as a fundamental violation of international law threatening the stability of the international order as a whole. Such communicative framing transformed Ukraine from a passive victim of aggression into a defender of universal legal principles, including sovereignty, territorial integrity and collective security.

The findings of the study also contribute to the theoretical literature concerning strategic narratives in international relations. While the findings generally confirm the strategic narrative approach proposed by A. Miskimmon *et al*. (2017), the present research demonstrates that legal narratives constitute a distinct subtype of strategic narratives centred on international legal norms, responsibility and accountability. This aspect remains insufficiently elaborated in existing scholarship. According to the authors, strategic narratives function as instruments through which political actors seek to shape the international environment by constructing coherent interpretations of political reality, legitimacy and collective identity. The legal public diplomacy of the President of Ukraine clearly demonstrates the operation of strategic legal narratives aimed at legitimising Ukraine's position within the international system while simultaneously delegitimising

Russian aggression. Several dominant legal narratives were identified in the course of the analysis, including the narrative of self-defense under Article 51 of the Charter of the United Nations, the narrative of accountability for war crimes and aggression, the narrative of democratic solidarity and the narrative of protecting the rules-based international order.

Particularly important was the integration of legal and democratic narratives within Ukrainian presidential communication. The study demonstrates that legal discourse addressed to American political audiences was frequently combined with references to shared democratic values, collective historical memory and the moral responsibility of democratic states. In this regard, the findings partially confirm the conclusions of studies devoted to emotional diplomacy and symbolic mobilisation during wartime communication (Matsuoka & Matsuoka, 2022). However, unlike purely emotional or symbolic approaches, the legal public diplomacy of the President of Ukraine relied heavily upon institutional and normative categories derived from international law. Consequently, the communicative strategy combined emotional mobilisation with legal legitimisation, thereby strengthening the persuasive capacity of presidential rhetoric in the international arena.

The results of the study additionally support previous research emphasising the central role of strategic communication within Ukrainian wartime diplomacy. At the same time, the findings demonstrated that the legal public diplomacy of the President of Ukraine extended beyond the bilateral Ukrainian-American dimension and contributed to the consolidation of broader Euro-Atlantic and international democratic solidarity. Through appeals to international law, accountability and the rules-based international order, Ukrainian presidential communication mobilised support among international organisations, European states and democratic partners across the wider international community. M. Karmazina (2024) argued that the diplomacy of Volodymyr Zelenskyy became an instrument for strengthening Ukraine's political subjectivity within international politics. Similarly, O.S. Koptiev (2023) demonstrated that public diplomacy during the war transformed into an important technology of Ukrainian foreign policy. The present research further develops these conclusions by demonstrating that legal argumentation constituted one of the principal mechanisms through which Ukrainian political subjectivity was internationally constructed and defended. Through references to sovereignty, aggression, genocide, war crimes and international criminal responsibility, the President of Ukraine consistently framed Ukraine as a fully legitimate subject of international law confronting unlawful imperial aggression.

An important theoretical implication of the study concerns the relationship between legal public diplomacy and lawfare. Contemporary researchers increasingly argue that international law has become an instrument of strategic political competition and geopolitical confrontation (Dunlap, 2008; Kittrie, 2016). The findings of the present research confirm that legal norms and institutions are no longer confined exclusively to judicial or diplomatic procedures but actively function within global public communication. Ukrainian presidential diplomacy illustrates how legal discourse may be strategically employed to mobilise international coalitions, influence foreign public opinion and construct international accountability mechanisms. In this context, legal public diplomacy may be interpreted as a communicative dimension of lawfare operating within the informational and normative domains of international politics. Thus, the present study supports the theoretical assumptions of aforementioned researchers regarding the strategic use of law in international competition. At the same time, it extends these approaches by demonstrating how legal argumentation operates not only within institutional and judicial arenas but also within presidential public diplomacy directed at foreign audiences.

The Ukrainian case also demonstrates the growing importance of legal legitimacy within the contemporary liberal international order. According to G.J. Ikenberry (2020), the stability of the post-Cold War international system largely depends upon the preservation of institutional rules, legal norms and multilateral cooperation mechanisms. The Russian invasion of Ukraine represented not only a military conflict but also a challenge to the normative foundations of the liberal international order itself. Consequently, the legal public diplomacy of the President of Ukraine consistently emphasised the universal significance of defending international law and collective security. The study demonstrates that references to international law served not only pragmatic foreign policy purposes but also broader normative functions aimed at preserving the legitimacy of the international system.

At the same time, the findings of the study indicate that the effectiveness of legal public diplomacy should not be overstated. Although legal argumentation played an important role in strengthening international support for Ukraine, the political decisions of the United States were influenced by a broader combination of strategic, geopolitical and domestic political considerations. Realist approaches to international relations traditionally emphasise that state behavior is primarily determined by security interests and power calculations rather than normative commitments (Mearsheimer, 2014). From such a perspective, American support for Ukraine may be interpreted not only as a defense of international law but also as a strategy aimed at containing Russian geopolitical influence and preserving the balance of power in Europe. Certain elements of political skepticism toward support for Ukraine within the United States also demonstrate the limitations of legal public diplomacy. Isolationist and populist political groups, particularly among representatives associated with nationalist or "America First" approaches, frequently questioned the strategic necessity of extensive American involvement in the Russian-Ukrainian war. Within such discourses, references to international law or democratic solidarity often proved less influential than arguments concerning domestic economic priorities, migration issues or political polarisation. Consequently, the study confirms that legal public diplomacy operates within broader political contexts where normative arguments interact with geopolitical interests, domestic ideological competition and media polarisation.

Nevertheless, the research demonstrates that legal public diplomacy contributed significantly to the formation of bipartisan political support for Ukraine during the initial phases of the full-scale invasion. References to international law, war crimes and aggression enabled Ukrainian presidential communication to frame support for Ukraine not merely as assistance to a foreign state but as participation in the defense of international legality and democratic civilisation. In this respect, the findings correspond to studies emphasising the importance of legitimacy and normative framing in international political mobilisation (Adler-Nissen, 2014). Legal argumentation strengthened the moral and institutional legitimacy of Ukraine's position while simultaneously increasing the reputational costs of political neutrality toward Russian aggression. An important feature of the Ukrainian case concerns the personalisation of legal public diplomacy through the figure of the President. Unlike traditional diplomatic communication conducted primarily through institutional channels, Ukrainian wartime diplomacy became highly personalised and media-oriented. Volodymyr Zelenskyy functioned simultaneously as head of state, wartime leader, global communicator and symbolic representative of democratic resistance. Such personalisation increased the visibility and emotional effectiveness of legal communication while also facilitating the rapid dissemination of strategic narratives through digital media platforms. The findings therefore support broader scholarly arguments concerning the mediatisation and personalisation of modern diplomacy under conditions of digital globalisation (Pamment, 2016).

The study additionally demonstrates that legal public diplomacy should be conceptualised as a distinct analytical category within contemporary international relations research. Existing scholarship frequently analyses wartime communication through the frameworks of soft power, strategic narratives or digital diplomacy. However, the Ukrainian case illustrates that legal discourse itself may become an autonomous strategic instrument within international communication. Legal public diplomacy differs from broader moral or value-based rhetoric because it systematically employs legal norms, institutions and accountability mechanisms as central communicative resources. Consequently, the concept of legal public diplomacy makes it possible to better understand the interaction between international law, legitimacy and strategic communication in contemporary international conflicts. The broader significance of the study extends beyond the Russian-Ukrainian war. The findings indicate that legal communication is likely to acquire growing importance in future international conflicts characterised by intensive information warfare, geopolitical polarisation and competition over international legitimacy. Under such conditions, states increasingly seek not only military or economic superiority but also normative and legal dominance within the international communicative sphere. Therefore, the Ukrainian experience of legal public diplomacy may represent an important model for understanding the future transformation of diplomacy, international law and strategic communication within the evolving global political order.

Conclusions

The conducted research demonstrated that the legal public diplomacy of the President of Ukraine during the full-scale Russian aggression has become an important instrument of strategic international communication aimed at legitimising Ukraine's position within the framework of international law, mobilising international support and strengthening Ukrainian-American relations. The study established that legal discourse occupied a central place in wartime presidential communication and functioned not merely as an auxiliary rhetorical element but as a systematic mechanism for constructing international political legitimacy under conditions of interstate armed conflict. The analysis of presidential speeches and public addresses revealed several dominant legal narratives that structured Ukrainian wartime communication. These included the legitimisation of Ukraine's right to self-defense in accordance with Article 51 of the Charter of the United Nations, the delegitimisation of Russian aggression as a violation of international law, the promotion of accountability for war crimes and the crime of aggression, the defense of the rules-based international order and the construction of democratic solidarity between Ukraine and the United States. Through these legal narratives, the President of Ukraine consistently framed the Russian-Ukrainian war not as a regional or bilateral conflict but as a global challenge to international legality, collective security and democratic political order.

The study additionally demonstrated that legal public diplomacy constituted an important mechanism for strengthening Ukrainian-American relations during the period of full-scale war. References to international law, democratic values and institutional responsibility enabled Ukrainian presidential communication to appeal simultaneously to the normative foundations of American foreign policy and to broader traditions of democratic internationalism within the United States political culture. The study substantiated the conceptual distinction between legal public diplomacy and other forms of wartime political communication. The proposed interpretation of legal public diplomacy as a distinct form of strategic international communication constitutes one of the principal theoretical contributions of the article. Further research may focus on comparative analysis of legal public diplomacy in other contemporary armed conflicts, as well as on the quantitative assessment of the influence of legal narratives on international public opinion, media discourse and foreign policy decision-making processes. Particularly promising is the further theoretical development of the concept of legal public diplomacy as an independent analytical category within contemporary international political science and international legal studies.

Acknowledgements
None.

Funding
None.

Conflict of Interest
None.

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Правова публічна дипломатія Президента України під час повномасштабної російської агресії в контексті українсько-американських відносин

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Анотація. Повномасштабна російська агресія проти України посилила значення правової аргументації у міжнародній політичній комунікації та перетворила публічну дипломатію на важливий інструмент міжнародної легітимації й стратегічної мобілізації. За цих умов правова публічна дипломатія Президента України набула особливого значення для зміцнення відносин зі Сполученими Штатами Америки та підтримки міжнародного порядку, заснованого на правилах. Метою статті було визначити основні інструменти, функції та політичне значення правової публічної дипломатії Президента України в умовах повномасштабної російської агресії, а також з'ясувати її роль у зміцненні міжнародної демократичної та правової солідарності з особливим акцентом на українсько-американському вимірі. Методологічну основу дослідження становили якісний контент-аналіз, дискурс-аналіз, фреймінг-аналіз і порівняльний метод. Встановлено, що правовий дискурс став одним із центральних компонентів воєнної публічної дипломатії Президента України. Посилання на міжнародне право, суверенітет, територіальну цілісність, воєнні злочини та міжнародну відповідальність систематично використовувалися для легітимації позиції України та делегітимації російської агресії. Доведено, що правова публічна дипломатія сприяла зміцненню демократичної солідарності між Україною та США шляхом представлення війни як глобального виклику міжнародному правопорядку та колективній безпеці. Також визначено, що правова публічна дипломатія функціонувала як окрема форма стратегічної комунікації, яка поєднувала правову легітимацію, політичну мобілізацію та конструювання стратегічних наративів. Практичне значення дослідження полягало у можливості використання його результатів у сфері міжнародних відносин, стратегічних комунікацій, публічної дипломатії та міжнародного права для аналізу правових наративів і механізмів міжнародної легітимації в умовах сучасних збройних конфліктів

Ключові слова: міжнародне право; стратегічна комунікація; президентська дипломатія; демократична солідарність; правові наративи; міжнародний порядок, заснований на правилах; відповідальність за агресію

ISSN 2786-491X, e-ISSN 3083-7472

Philosophy, Economics and Law Review

Vol. 6. No. 1. 2026
Received: 11.09.2025
Revised: 09.03.2026
Accepted: 30.04.2026
Published: 29.05.2026

Journal homepage: https://phelr.com.ua/en

UDC 341.48:341.645.2(477:470)

DOI: 10.63341/2786-491X-2026-1-91

Transformation of mechanisms of international legal responsibility for genocide in the context of Russian aggression against Ukraine: Literature review

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Abstract. The relevance of the study is conditioned by the deep crisis of the international security system and the failure of existing institutions, in particular, the UN Security Council, to promptly prevent acts of genocide in the context of Russian aggression. The purpose of the study was to comprehensively analyse changes in the mechanisms of international legal responsibility for genocide and identify ways to overcome institutional obstacles on the example of the war in Ukraine. With the help of dialectical and historical legal methods, the evolution of international criminal law was analysed; the formal legal approach helped to assess the compliance of modern actions of the aggressor state with the norms of the 1948 Convention and the Rome Statute; the use of system analysis identified the connection between digital narratives and the practical implementation of genocidal intent. It was established that the veto power of permanent members of the United Nations Security Council has become a destructive tool for ensuring impunity for the aggressor, which requires immediate reform of voting procedures; the necessity of transforming the concept of "duty to protect" from a declarative political doctrine into an effective legal algorithm with clear criteria for international intervention was substantiated; the role of digital platforms in scaling hate speech was analysed and it has been established that algorithmic promotion of dehumanising content should be recognised as a form of incitement to genocide; it has been proven that the forced displacement and Russification of Ukrainian children constitute a premeditated act of biological and social annihilation of the nation; it has been established that the warrants issued by the International Criminal Court provide the necessary legal precedent, but require supplementation with specialised repatriation mechanisms; it has been proposed that standardised international registers be introduced to record criminal acts in real time. The results obtained and the proposals formulated can be used by experts in the field of international law, diplomats, and representatives of law enforcement agencies to develop strategies for the prosecution of war crimes and the development of new protocols for the repatriation of deported persons

Keywords: international crimes; Rome Statute; UN Security Council; hate speech; forced displacement; repatriation of children; transitional justice

Suggested Citation:
Malanchuk, T., & Karpenko, A. (2026). Transformation of mechanisms of international legal responsibility for genocide in the context of Russian aggression against Ukraine: Literature review. *Philosophy, Economics and Law Review*, 6(1), 91-102. doi: 10.63341/2786-491X-2026-1-91.

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Introduction

The crime of genocide in the world today has evolved from the direct physical extermination of groups into a complex system of ideological, digital, and socio-cultural pressure aimed at eradicating national identity. The full-scale aggression against Ukraine demonstrated a deep functional crisis of international institutions, which were unable to quickly respond to signs of genocidal policies in real time. The problem of the study is the critical need to rethink the classical mechanisms of responsibility, since existing legal algorithms do not consider the role of digital platforms in inciting violence and do not offer effective tools to counteract the forced assimilation of the most vulnerable segments of the population. The lack of preventive effectiveness of the UN Security Council and the difficulty of proving a special intention in a hybrid war create a security vacuum that allows aggressor states to avoid responsibility for systemic violations of peremptory norms of international law. Thus, the transformation of responsibility mechanisms is not just a theoretical discussion, but a question of the survival of nations and the restoration of the authority of the global justice system.

The analysis of recent studies and publications indicates a high interest of the scientific community in this topic. According to V.V. Mangora *et al*. (2025) the use of force or other measures by the international community to protect civilians from massive human rights violations, such as genocide or ethnic cleansing, requires a clear distinction between the military and non-military nature of the intervention. The researchers stressed the importance of combining diplomatic pressure and economic sanctions as preventive methods that should precede extreme responses within the framework of the concept of protecting fundamental human rights. A.S. Saukh (2025) conducted a thorough legal analysis of the forced transfer of children from one human group to another as an objective side of the crime of genocide. The researcher proved that such actions are part of a purposeful repressive policy that can be implemented both during and outside an armed conflict. It concluded that to qualify this act as a form of genocide, it is critical to establish a special goal – the intention to destroy a protected nation or ethnic group in whole or in part by destroying the mechanisms of its biological and social reproduction. D. Budrytė (2025) considered two perspectives of historical justice after the genocide, emphasising that sustainable peace is impossible without full justice. The researcher proved that reconciliation processes in societies affected by mass atrocities directly depend on the recognition by the international community of the very fact of genocide and ensuring the inevitability of punishment for the organisers of the crime. I.I. Pylypyshyna & O.N. Turchenko (2022) analysed the protection of children's rights in the context of the armed conflict in Ukraine. The researchers concluded that the existing mandate of international organisations such as UNICEF and the Red Cross is often insufficient to overcome the sovereign resistance of the aggressor state, which requires the creation of new, more stringent protocols for the intervention and return of displaced persons. M. Baldi *et al*. (2024) carried out a comprehensive analysis of the challenges that arise in the qualification of genocide in the context of the rapid development of digital technologies. The researchers investigated how social networks and artificial intelligence algorithms transform methods of spreading hate speech, turning them into tools for coordinating mass violence and dehumanising target groups. The researchers concluded that conventional legal approaches to defining "direct and public incitement" need to be adapted to digital realities, where the speed and scale of information dissemination create new levels of threat. They stressed the importance of developing international standards of digital responsibility that would effectively record electronic evidence of genocidal intent and hold accountable not only the direct authors of appeals, but also the technological platforms that facilitate their broadcasting. V.K. Singh (2025) argued that international justice faces challenges of prosecution for cybercrime that accompany acts of aggression, which creates prerequisites for expanding the jurisdiction of international tribunals. Despite the thoroughness of the works cited, the research did not devote sufficient attention to the transformation of the concept of the "responsibility to protect" in the context of the abuse of the veto right in the UN Security Council, nor to the legal assessment of the role of digital platform algorithms in amplifying incitement to genocide. These aspects remain fragmentary, which served as the basis for conducting this research.

The purpose of the study was to comprehensively investigate current changes in the mechanisms of international legal responsibility for genocide and identification of practical ways to improve their effectiveness on the example of countering Russian aggression against Ukraine. The methodological basis of the study consisted of general scientific and special legal methods: the dialectical method was used to analyse the transformation of legal norms in their development; the formal legal approach allowed assessing the provisions of the Rome Statute and the 1948 Convention; the comparative legal method was used to contrast the reaction of the international community to various cases of genocide, and the systematic analysis helped to identify institutional gaps in the UN structure.

Evolution of the duty to prevent genocide and the concept of the "duty to protect"

The issue of genocide prevention in international law is traditionally formulated as a combination of two interrelated dimensions: the legal duty of states to prevent crime and the institutional capacity of the international community to ensure a timely response. In theory, the Convention on the Prevention and Punishment of the Crime of Genocide (1948) establishes a direct requirement: states "undertake to prevent" genocide and punish it (Article I), and may, if necessary, request the authorised bodies of the United Nations to take such measures as they deem necessary to prevent and suppress acts of genocide (Article VIII). Although the Convention provides clear instructions, in practice, they often do not work. Everything stops because of bureaucracy and the fear of states making difficult political decisions.

The evolution of contemporary international criminal law began with the Convention on the Prevention and Punishment of the Crime of Genocide, adopted in December 1948. Solving the issues of preventing and punishing any international crime is impossible without ensuring institutional mechanisms for the responsibility of individuals for such actions. Therefore, the next step in the evolution of contemporary international criminal law was the adoption at the Diplomatic Conference in Rome on July 17, 1998 of the Rome Statute of the International Criminal Court, which established the International Criminal Court. The Rome Statute of the International Criminal Court (1998) was ratified on August 21, 2024, and entered into force on January 01, 2025. According to A.S. Slavko & V.A. Bashkyrova (2017), "this was a step towards consolidating international criminal law, in particular, the principles of fair and individual responsibility".

Genocide is not just a crime; it is an attempt to completely destroy an entire nation. When the crime has already begun, it is incredibly difficult to stop it, and it is impossible to restore people's lives. That is why it is so important to prevent it, that is, to take preventive measures. However, in practice, it is the preventive component that is the weakest. Often, the international community usually acts late. The demand to provide irrefutable evidence of the intention to destroy the people is often used as an excuse to simply do nothing. Instead of stopping the tragedy at its outset, the international community delays action, citing the legal difficulty of establishing that genocide has occurred. The difficulty of proving that this is genocide is only an excuse not to interfere earlier. It appears justified to argue that when international organisations, such as the United Nations, do little more than express concern while a people are being exterminated, the law itself loses its meaning. This logic is seen as dangerous, and the responsibility of prevention should by its very nature include early identification of risks, instruments of pressure and coordination of international mechanisms. The effectiveness of international legal mechanisms directly depends on the political will of the participating states and their ability to implement decisions of international courts at the national level (Silitonga & Abdillah, 2025).

A contemporary manifestation of the international legal framework for the protection of fundamental human rights in extreme situations is the concept of "duty to protect", which is aimed at protecting people's lives in cases where they are in immediate danger of existence (Liubashko, 2018). This concept was the result of an attempt by the international community to correct the shortcomings of "humanitarian intervention", which was often criticised for its political selectivity and violation of sovereignty. Humanitarian intervention focused on the right of strong states to intervene in the affairs of weak ones by force, and the concept of "duty to protect" shifts the focus to the needs of victims and state responsibility. Humanitarian intervention is the use of force or other measures by the international community to protect civilians from massive violations of human rights, such as genocide, ethnic cleansing, torture, or other forms of violence committed by governments or other actors within a particular state. Intervention can be both military and non-military in nature (for example, economic sanctions, diplomatic pressure, humanitarian aid) (Mangora *et al*., 2025).

The concept of "duty to protect" combines law, politics and moral imperative. On the one hand, it appeals to the Charter of the United Nations of June 26, 1945 (Charter of the United Nations, 1945) and its collective actions (primarily under Title VII), on the other hand, it seeks to prevent a situation where state sovereignty is used as a shield for mass atrocities. The problem is that the rules of this concept are vague. On the one hand, they can be interpreted as a reason for interference in other people's affairs, and on the other, it is advisable to point out their predominantly declarative nature. This creates confusion: it is not clear when force can actually be used, and why in some cases the world reacts and in others it does not.

Therefore, the content of the international legal obligation of a state to prevent genocide cannot be reduced only to criminalisation of the act at the national level or to general political statements. The Convention on the Prevention and Punishment of the Crime of Genocide (the Convention) formulates the duty to "prevent" as an independent (and preemptive) duty of conduct that exists in parallel with the duty to "punish" (Convention on the Prevention and Punishment of the Crime of Genocide, 1948). Terminological unification of concepts in the field of international humanitarian law is a necessary condition for ensuring the inevitability of punishment for crimes against humanity and genocide. The key legal specification is provided by the practice of the International Court of Justice. In the case of Judgment of International Court of Justice (2022), the court explained that the duty of prevention is a separate legal obligation which arises when the state is aware or should have been aware of a serious risk of genocide and requires it to take action within its capabilities. It seems that it is this logic of "serious risk" that shifts the focus from proving a crime that has already been committed to assessing danger indicators and to the obligation to act in advance.

For the first time at the highest political level, the concept of "duty to protect" was consolidated in the outcome document (United Nations, 2005) (Paras. 138-139). It stipulates that each state has the responsibility to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity, and the international community must help and, if necessary, act collectively in accordance with the UN Charter. It is important to highlight three aspects of the concept of "duty to protect" proposed in UN practice: primary state responsibility; international assistance and capacity-building; and timely and decisive response. It is the third aspect that causes the most discussion, since it falls within the scope of sanctions, the use of force and collective decisions.

UN Security Council institutional crisis and the issue of the veto

The UN Security Council plays a central role in the maintenance of international peace and security, and Section VII of the Charter of the United Nations provides tools for responding to threats to peace, breaches of peace and acts of aggression. However, the decision-making procedure (Article 27) grants permanent members the right of veto, which leads to a structural vulnerability of the system. When the central peacekeeping body, which can be considered the UN Security Council, is paralysed due to the right of veto (Article 27 of the UN Charter), this negates the possibility of collective measures exactly when they are most needed, that is, in the early stages of escalation and in the presence of signs of preparation for international crimes. This is evident when a permanent member of the Security Council is itself a party to a conflict or an aggressor. The critical ineffectiveness of this mechanism is observed when a permanent member of the Security Council acts as a party to a conflict or an aggressor. In cases of mass atrocities, a veto often means not just a lack of consensus, but the actual impossibility of applying even minimal preventive measures: sanctions, embargoes, investigative mandates, increased monitoring, or appeals to the ICC. From a legal standpoint, the question is debatable: is a veto a right that can be used without considering the consequences, or is it a tool whose use should be restricted if mandatory norms are threatened?

In the context of blocking in the Security Council, the key alternative is the UN General Assembly (the UN General Assembly). Resolution of United Nations General Assembly No. 377(V) (1950) establishes a political and procedural instrument that allows the UN General Assembly to consider issues when the Security Council is unable to act due to the lack of unanimity of permanent members, and recommend collective measures. Additionally, Resolution of United Nations General Assembly No. A/RES/76/262 (2022) introduced the obligation to convene a meeting of the General Assembly whenever a veto is applied in the Security Council, which increases the level of public accountability. However, these mechanisms have limits: decisions of the UN General Assembly are mostly advisory in nature and do not replace coercive measures of the Security Council. Therefore, the issue of institutional reform goes beyond one procedure.

Judicial practice also reinforces the idea that the prevention of genocide is a matter for the international community, not just an internal matter for the state. In the application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar) (2022), the International Court of Justice has confirmed that any state party to the Convention, and not just the affected state, can hold another state party liable for failure to comply with its obligations under the Convention, thereby recognising the right of Gambia to apply to the court. The obligation to comply with the Convention is an "*erga omnes*" obligation and means that all states parties can demand that Myanmar cease its violations. In the case of Order of International Court of Justice No. 182 (2022), the court pointed out the need for a cessation of hostilities in the context of a dispute concerning the interpretation and application of the convention. On February 26, 2022, just two days after the start of a full-scale Russian invasion, Ukraine filed a lawsuit with the International Court of Justice regarding Russia's violation of the Convention on the Prevention and Punishment of the Crime of Genocide and a request for a court order on temporary measures against Russia. In the lawsuit, the Ukrainian side insisted that Russia resorted to a full-scale armed invasion because of a fictitious pretext for "genocide of the people of Donbass", which it used as false accusations as "*casus belli*" and thus abused the UN Convention on the prevention and punishment of the crime of genocide. The International Court of Justice also noted that at this stage of the proceedings, there is no evidence to support Russia's statements about genocide on the territory of Ukraine. Moreover, the use of force against another state cannot be justified by the state's accusations of genocide. The court also noted that the so-called "special military operation" of Russia has already caused a large number of civilian casualties and civilian objects and quoted the Order of the International Court of Justice No. 182 (2022).

Summing up, it should be noted that today the right of veto has become an instrument of impunity. When a permanent member of the UN Security Council itself becomes an aggressor or supports a party committing mass crimes, the collective security system is paralysed. The main problem is that the UN Charter does not provide effective safeguards against the abuse of this right in cases where the threat of genocide is concerned. This creates a situation in which the political interests of one state become higher than the duty to save the lives of thousands of people. The case of Ukraine has clearly demonstrated that as long as the veto can block investigations and preventive measures, the Security Council is not able to fully perform its main function – preventing the most serious crimes against humanity. That is why the reform of this mechanism, or at least the restriction of the veto in cases of mass atrocities, is not just a legal discussion, but a matter of survival and the international rule of law.

The digital dimension of genocide: hate speech and incitement on social media

In the era of digital transformation, public communication between states and societies has changed the mechanisms for implementing violence: hate speech, which was previously spread mainly through traditional media, is now massively distributed in social networks, and has a significant impact on public opinion. The position advanced by Ye.V. Renov (2025) merits support: "freedom of expression, as one of the cornerstones of democracy, is of paramount importance; however, it is not absolute, given the genuine threat that hate speech poses to human rights, human dignity, and the security of society as a whole. This threat becomes particularly dangerous when politicians or officials use the media to spread hate speech. And the response to such manifestations should not be tacit tolerance, but effective legal instruments of counteraction at the national and international levels". In international criminal law, "direct and public incitement to genocide" (Article III (c) of the Convention) is a unique offence. Its specificity is that this crime is considered completed at the time of the proclamation of the appeal, even if the genocide itself did not take place after that. To qualify incitement in the digital age, criteria such as publicity (audience reach, number of subscribers, reposts, views, etc.) and direct nature (the call does not have to contain the word "kill" and can be veiled if the audience clearly understands it as a call to violence) are used. "Directness" is usually associated with the extent to which a message in its natural meaning, in the context of the addressees of the first situation, encourages the destruction of the protected group. Therefore, the analysis of "directness" requires considering the digital context (previous publications of the author, references to narratives, audience reactions, the role of botnets, etc.). The criterion of publicity in the digital age is largely transformed: a message published even on an official's personal page or in a channel/account of a state institution can become public through open access, reposts, and algorithmic promotion.

An example of responsibility for direct and public incitement is the establishment by the United Nations Security Council of the International Criminal Tribunal for Rwanda (The ICTR in Brief, n.d.) for "the prosecution of persons responsible for genocide and other serious violations of international humanitarian law committed on the territory of Rwanda and neighbouring states between 1 January 1994 and 31 December 1994". The ICTR is the first international tribunal in history to issue verdicts on genocide, and the first to interpret the definition of genocide set out in the 1948 Geneva Convention. The ICTR became the first international tribunal to hold media representatives accountable for broadcasts aimed at inciting the public to commit acts of genocide. The radio, known as Radio Television Libre des Mille Collines (RTLM), was accused of creating what prosecutors called "the most powerful weapon for committing genocide". The indictment states that radio co-founder Felicien Kabuga is accused of "genocide, direct and public incitement to genocide, conspiracy to commit genocide and persecution for political reasons, extermination and murder as crimes against humanity committed in Rwanda in 1994".

The key in genocide cases is to prove the intention to destroy the group as such. In the practice of the International Court of Justice, intent is usually derived from a set of circumstances (the scale and consistency of violence, the nature of actions, the choice of victims, the context), and from public statements, documents, and policies. Accordingly, messages and statements of Russian officials in social networks can potentially have evidentiary value, but only if they are: clearly aimed at a protected group (Ukrainians as a national group); have content that, in context, clearly indicates support for or justification for the destruction/displacement/elimination of the group's identity; are associated with or supported by real state practice; come from persons capable of shaping or reflecting state policy. In proceedings before the International Court of Justice, such records can be used as elements confirming a state's position, intention, or knowledge, although a "screenshot" alone without proper verification would not be sufficient (Geneva Convention (IV), 1949).

Public statements of Russian officials in media resources and social networks regarding Ukraine and Ukrainians can serve as direct proof of intent in the courts. And this already has practical confirmation. French lawyer Emmanuel Dowd, who filed a lawsuit with the International Criminal Court (ICC) regarding the illegal and forced export of children from Ukraine, said in an exclusive interview with Voice of America that all factual material was taken from open Russian sources. This is the official website of the Kremlin, where Vladimir Putin discusses the situation with Maria Lvova-Belova and asks her to change the legislation to allow the immediate adoption of Ukrainian children by Russians. This is Russian television, which showed how these children were brought by buses, trains or planes, how they were met by the governors of various Russian regions, who were going to transfer them to Russian families. The amendments to Russian legislation that they propose would allow the civil status of these children to be altered in less than 24 hours, including changes to their surnames, given names, places of birth, and dates of birth, effectively transforming them into "perfect little Russians" (Turkova, 2023).

At a press conference in Kyiv, the Head of the UN Independent International Commission to investigate violations in Ukraine, Eric Mese, noted that the commission did not come to the conclusion that genocide is taking place in Ukraine, but the investigation will continue. "There were certain statements in the Russian media that may have been related to the issue of incitement to genocide". Contemporary information platforms use algorithms aimed at maximising audience engagement. In the context of preparing for genocide, this is quite a dangerous factor. In the current realities of Russian aggression against Ukraine, the use of information platforms as a space for the implementation of genocidal intent is of particular importance, since the public rhetoric of individual officials of the Russian Federation, reproduced on a large scale and reinforced in digital environments, can (if there is an appropriate procedural framework) be considered as an element of the evidence base for the existence of an intention to destroy Ukrainians as a national group, in particular, through attacks on identity, culture, and future generations. An additional dimension is the practice of forced transfer of Ukrainian children, for whom the information campaign and dehumanisation can perform the function of "preparing the ground" and normalising appropriate actions, in particular, illegal displacement, violation of the child's right to preserve individuality, including citizenship, name, and family ties (Convention on the Rights of the Child, 1989). It is seen that in the context of digital transformation, social media algorithms become catalysts for dehumanisation, which requires a revision of classical approaches to the qualification of incitement to genocide.

An example of how the digital ecosystem (primarily social media platforms) can act not only as a channel, but also as a multiplier of genocidal propaganda is the tragedy of the Rohingya people in Myanmar. The genocide escalated in 2016-2017 and continues with varying intensity to this day. A report by the non-profit organisation Business for Social Responsibility (BSR) confirmed public concerns about the role of Facebook (Meta) in events in Myanmar. The study found that the platform has become a tool in the hands of attackers to spread hate speech, incite violence, and incite interethnic conflicts. In response to these findings, the company's management officially acknowledged that they did not stop the distribution of dangerous content in time and did not prevent the use of the social network as a platform for harmful and racially provocative activities (Ellis-Petersen, 2018). It is significant that Rohingya representatives in the UK and the US filed lawsuits against Facebook/Meta, claiming that the company created conditions for the large-scale spread of hate speech and calls for violence. As of the beginning of 2026, no decision has been made. This has exposed a gap: international law does not yet have established, unambiguous mechanisms for holding it giants or individuals accountable for "digital" incitement in connection with genocide, and proof of special intent (*dolus specialis*) remains a key challenge in all relevant proceedings. In international criminal law, incitement to genocide has a special status – it is already recognised as punishable as an independent crime, even if the genocide has not been proven to be complete (provided that the elements of incitement are fulfilled). The classic phrase "direct and public incitement to commit genocide" is consolidated in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

Currently, the responsibility of platforms for "digital incitement" in international law consists of disparate norms that are not consistent with each other. In cases of genocide, the International Court of Justice requires convincing confirmation, which is consistent with the general logic of proof. Therefore, the most promising strategy is one that combines digital evidence with documents and reports of international missions, state acts, and regulatory decisions, and the behaviour of the aggressor in the occupied territories (in particular, in relation to children). An analysis of the practice of international tribunals indicates the need to develop unified criteria for assessing direct and public incitement carried out through digital platforms.

L.V. Milimko & Y.V. Zhydovtsev (2025) considered it appropriate to strengthen the role of civil society institutions in the processes of collecting electronic evidence of incitement to violence in a hybrid war. In 2024, the International Federation for Human Rights (FIDH) and its partners – the Kharkiv Human Rights Group and the Centre for Civil Liberties, published an appeal based on Article 15 of the Rome Statute of the International Criminal Court "The situation in Ukraine: hate speech as a crime against humanity in the form of persecution". This appeal was aimed at bringing to justice five key Russian public figures whose activities have become decisive in organising the persecution of Ukrainians. In particular, Vladimir Solovyov, Margarita Simonyan, Dmitry Kiselyov, Dmitry Medvedev, and Sergey Mardan are accused of systematically spreading discriminatory hate speech based on political beliefs. The aforementioned figures exerted massive information influence through public and private media platforms, including social networks. Their activities were aimed at spreading hate speech and psychological attitudes of the population against Ukrainians. Propagandists acted with direct intent, realising the aggressive nature of the military actions of the Russian army and using the media resource as a tool to support the war of conquest (Submission under Article 15..., 2024). This is just one example of collecting and systematising materials that will be used as an evidence base for establishing genocidal intent in international courts.

Forced displacement of children: legal qualification and proof of intent

According to Article II(e) of the Convention on the Prevention and Punishment of the Crime of Genocide, one of the acts committed with the intention of destroying, in whole or in part, a national, ethnic, racial or religious group as such is the forced transfer of children of that group to another group. The relevant provision is reproduced in Article 6 (e) of the Rome Statute of the International Criminal Court, dated 17.07.1998, confirming its status as one of the main international crimes. The international legal prohibition of the forced transfer of children is based on the understanding that genocide can be carried out not only through physical destruction, but also through the destruction of the mechanisms of reproduction of the group. Thus, the group is deprived of future generations who should have continued its existence, and loses its "biological reserve". The scientific literature emphasises that the displacement of children can be considered as a form of biological and social destruction. The biological dimension is associated with the loss of the demographic potential of the group, while the social dimension is associated with a gap in cultural and historical continuity. It is the coercive nature of the transfer and transfer of children to another group that determines, which may include both cross-border export and their further integration into someone else's socio-cultural environment (Budrytė, 2025).

One of the first confessions of genocide of children was the abduction of children from the occupied territories of Eastern European states for the purpose of their nationalisation during the Second World War, which was recognised as a particularly cruel and unacceptable act for the international community. In the decision of the Nuremberg Military Tribunal in the case of Judgment of the U.S. Military Tribunal Nuremberg on Greifelt *et al*. (1948), this practice was qualified as genocide. A similar situation is currently taking place in the occupied territories of Ukraine in the context of the aggression of the Russian Federation against Ukraine. There is a forced transfer of Ukrainian children to the Russian national group. In this regard, on April 14, 2022, the Verkhovna Rada of Ukraine recognised the actions of the Russian Armed Forces and its political and military leadership as genocide. This political declaration contains a legal justification and explains why Russia's actions should be considered as genocide of the Ukrainian people. In addition, it specifically states that the act of genocide manifests itself in the forced displacement of Ukrainian children to the territory of the Russian Federation and their transfer to someone else's environment for upbringing in order to destroy their self-identification as Ukrainians (Statement of the Verkhovna Rada of Ukraine No. 2188-IX, 2022).

These norms acquire practical significance in the light of documented facts of forced displacement of children. The OSCE report, prepared within the framework of the Moscow mechanism, records violations of international humanitarian and human rights law related to the forced transfer of Ukrainian children, and indicates the possible organised nature of such actions. Additionally, the Yale Humane Research Lab study described a network of institutions where children were exposed to political and cultural influences, which may indicate a focus on changing their national identity. In cases where the movement is accompanied by a change in personal data, restriction of contacts with the family and integration into another cultural environment, this forms a set of indicators that can be used to prove special intent – a key element of the crime of genocide.

The position advanced by A.S. Saukh (2025) appears well founded, namely that the forcible transfer of children from one protected group to another is carried out as part of a repressive policy directed against the affected group and may occur both during an armed conflict and independently of one. This act can be qualified as a form of genocide if there is a special purpose – the destruction of the protected group, in whole or in part. K.V. Yurtaieva (2024) proposed to supplement the accusation of representatives of the Russian authorities in the deportation and transfer of Ukrainian children from the occupied territories of Ukraine to Russia with the accusation of forcible transfer of children from one human group to another as a form of genocide of the Ukrainian people. The question of whether the deportation of Ukrainian children to the Russian Federation can be recognised as a crime of genocide is complex and requires a solid evidence base, which will consist of carefully collected recorded and documented evidence. The difficulty of determining is that it is difficult to determine how many children were taken to the Russian Federation. According to the state portal "Children of War", more than 20,000 cases of deportation and forced displacement of children (Children of War, n.d.). It is worth noting that this indicator is not final, since work continues to establish the exact number of victims.

Poland's experience with the abduction of Polish children by Nazi Germany during World War 2 is noteworthy. First of all, the Polish side had to prove that a certain child was "abducted" from Polish territory. Children were found in different places far from Poland, their family documents were destroyed or falsified, time passed, circumstances changed, and the victims of the abductees were no longer the same children. Children over the age of 16 were also required to submit applications for their readiness to return to Poland. Victims abducted in early childhood did not remember their biological parents, did not know polish, and often acclimated relatively well to German families who surrounded them with care and love, and did not want to return to foreign places and people. The number of abducted Polish children was estimated at 200,000, of which just over 30,000 have returned to

Poland. The abduction of children was recognised by the International Military Tribunal in Nuremberg as a crime of genocide, and the 1948 UNESCO Conference held in Trogen, Switzerland, recognised the abduction and extermination of children as a crime against humanity (Murawska, 2023).

The Parliamentary Assembly of the Council of Europe (PACE) on April 27, 2023, during the debate at the spring session, adopted a resolution "deportation and forced displacement of Ukrainian children and other civilians to Russia and the temporarily occupied territories of Ukraine: creating conditions for return, stopping the commission of crimes and punishing those responsible" and recommendations thereto. The document, in particular, contains provisions that: forced displacement and deportation of civilians and children can be investigated as a crime of genocide, a war crime, a crime against humanity; all states parties to the Rome Statute must ensure the execution of arrest warrants from the International Criminal Court; address to the Council of Europe to ensure responsibility and justice for the aggression of the Russian Federation against Ukraine; support for the work of Ukrainian initiatives aimed at the return of Ukrainian citizens; the importance of bringing war criminals to justice, etc. Thus, within the walls of the European Parliament, the actions of the Russian Federation were recognised as genocide. Thus, for the first time, an international document refers to a possible genocide by Russia against Ukrainians. The resolution notes that most of the Ukrainian children were taken to Russia in summer camps, where they were "re-educated", in particular "Russified". In these camps, children were forbidden to speak Ukrainian or express their Ukrainian identity in general, but they were taught Russian, the Russian version of history, and also promoted Russian patriotism. Some children were even told lies that their parents died to change their last names in order to further complicate the search. All these actions, according to pace deputies, may be elements of genocide (Resolution of Parliamentary Assembly of the Council of Europe No. 2495, 2023).

The current stage in the development of International Criminal Justice is characterised by increased attention to the protection of the most vulnerable groups of the population in situations of armed conflict. The issuance by the International Criminal Court of arrest warrants for senior Russian officials in March 2023 on charges of illegal deportation and relocation of Ukrainian children was an unprecedented act of deep legal significance. Warrants are based on the existence of "sufficient grounds" to qualify actions as a war crime (according to Article 8 of the Rome Statute). This creates a legal prejudice for further investigations, in particular in the context of establishing a special genocidal intent under Article 6(e). The observation by M.I. Hurkovskyi regarding the reform of the collective security system appears well founded, namely, that such reform should be based on limiting sovereign immunities where acts of mass atrocities and genocidal policies have been established (Yavorska, 2025).

Repatriation mechanisms and international protection of deported persons

The problem of repatriation of persons to their homeland is a complex set of legal and humanitarian obstacles, where international law faces a lack of enforcement mechanisms. Numerous norms of international humanitarian law and international human rights law provide for the immediate and unconditional return of civilians, in particular minors, and the reunification of separated families. That is why the states of the world are devoting significant resources and making significant efforts to establish and support international organisations designed to prevent armed conflicts and massive human rights violations, especially those affecting children. The main goal of such organisations is to ensure the security of member states and simultaneously assert the right of everyone to security, with a particular focus on children as an extremely vulnerable social group in need of an increased level of protection (Pylypyshyna & Tkachenko, 2022).

The Russian Federation is purposefully transforming the legal status of deported children through simplified citizenship and the institution of adoption. From the perspective of international law, this constitutes a violation of Article 50 of the Fourth Geneva Convention of 12 August 1949, which prohibits an occupying power from altering the personal status of children. The lack of access of international monitoring missions to the registers of deportees and their places of stay makes data verification impossible. Therefore, this requires the development of new legal instruments for digital monitoring and the creation of a single international register under the auspices of the UN. Statements by officials of international organisations also indicate the seriousness of violations. In particular, the UN High Commissioner for Refugees F. Grandi said that Russia violated the basic principles of protecting children in wartime by issuing Russian passports to Ukrainian children and giving them up for adoption (Roshchina & Kryshevych, 2026).

One of the key areas of international activity in this area is the organisation of the process of return of children, and one of the most difficult problems remains the repatriation of deported children. The difficulties of this process are related to the lack of complete information about their location, possible changes in the status of citizenship, and limited access of international organisations to the relevant territories. No return mechanism will work with approximate information about deported children. Ukraine should prepare detailed lists of children in order to declare a consolidated demand to the Russian Federation to return them.

Despite the fact that diplomatic relations between Ukraine and Russia were terminated on February 24, 2022 (Letter of Ministry of Foreign Affairs of Ukraine No. 72/11-612/1-81401, 2022), international organisations such as the UN, UNICEF, and the International Committee of the Red Cross have an extremely important role to play in protecting children during armed conflicts. They not only streamline interstate relations, but also make decisions on global issues of our time. However, the existing mandate of international organisations is often insufficient to overcome the sovereign resistance of the aggressor state. Due to Russia's refusal to cooperate with Ukraine on the return of deported and displaced children, the cooperation of the government of Ukraine with international organisations in creating an international mechanism for the search and return of such children is extremely important. Also effective is the mechanism that operates in accordance with Article 45 of the Vienna Convention on Diplomatic Relations (1961), in accordance with the procedure for identifying, returning, escorting, and reintegrating children who have been deported or forcibly displaced, or were at risk of deportation and/or forced displacement as a result of the armed aggression of the Russian Federation against Ukraine, approved by the resolution of Cabinet of Ministers of Ukraine No. 544 (2024). In particular, it was noted that "in the event of a break in diplomatic relations between two states or the final or temporary withdrawal of representation, the accreditation state may entrust the protection of its interests and the interests of its citizens to a third state acceptable to the host state". The conceptual framework for criminalising the forced displacement of children has been analysed in detail by E. Gzoyan (2020), who traced the evolution of the relevant norm from its development during the development of the Convention to contemporary mechanisms of international criminal prosecution. The researcher emphasised that this form of genocide has not only a biological, but also a socio-cultural dimension, since it is aimed at destroying group identity through the assimilation of children.

D.A. Kourtis (2024) pointed to the historical experience of the Greek civil war and demonstrated that the forced displacement of children was used as a tool for transforming ethnic and political identity long before modern conflicts. The contemporary Ukrainian context has become the subject of analysis by a number of researchers. In particular, Y. Ioffe (2023) examined whether the actions of the Russian Federation to move Ukrainian children can be qualified as genocide. The researcher carefully approached the problem of proving special intent (*dolus specialis*), considering the existing factual circumstances through the prism of international judicial practice. Instead, H. Moodrick-Even Khen (2024) took a more categorical position, arguing that the Ukrainian case actually updated the norm of the Convention, which for a long time remained insufficiently involved in international law. A similar conclusion was reached by L. Muelrath (2024), who analysed the forced displacement and adoption of Ukrainian children in the context of international humanitarian law and the law of international criminal responsibility.

The most comprehensive assessment of contemporary international legal instruments and judicial practice is offered by A. Mohammadi & A. Laridashti (2025). The researchers systematised the provisions of the Convention, the Rome Statute, and the decisions of international judicial institutions and conclude that there are sufficient legal grounds for considering the forced displacement of Ukrainian children as a potential act of genocide. A comparative analysis of these studies showed that there is a general scientific consensus that the forced displacement of children is one of the least studied, but at the same time the most dangerous forms of genocide. Thus, the involvement of the "patron state" or international organisations as intermediaries is critical to ensuring the rights of deported children in the absence of direct interstate dialogue. The implementation of this mechanism allows not only to monitor the state of human rights in territories that are beyond the de facto control of Ukraine, but also creates a legitimate legal path for the physical return of children and their further reintegration into Ukrainian society.

Conclusions

Social media has transformed the very nature of incitement, transforming it from a local phenomenon to a global and instant threat. The establishment of "genocidal intent" through the analysis of the digital rhetoric of officials is becoming a key element of the evidence base in contemporary international courts. The international community must develop mechanisms to hold accountable those platforms whose algorithms deliberately scale incitement to genocide for profit or political loyalty to certain regimes. It is necessary not only to improve the methods of collecting digital evidence, but also to develop universal criteria of responsibility for all participants in the information process – from individual officials-authors to multinational corporations-owners of platforms.

The fragmentation of international norms on responsibility for "digital incitement" remains a key legal problem. The most promising legal strategy for Ukraine is a comprehensive approach that will prove that information campaigns were not accidental, but served as an ideological preparation and support for acts of genocide. Legal recognition of the fact of forced deportation of children at the level of international courts makes it much easier to prove genocidal intent in subsequent trials. But the problem of repatriation of deported persons has revealed a serious institutional gap in contemporary international law. Despite the existence of rules prohibiting deportation, the international community still does not have a unified mechanism for the forced return of victims. The repatriation process now depends on the political will of mediators and situational agreements, which is unacceptable on the scale of a mass war crime. Forced assimilation, change of citizenship, and "re-education" of children are acts of erasure of national identity that require an immediate legal response. Therefore, it seems that ICC warrants are a necessary but not sufficient step.

Effective preventive and repatriation mechanisms must be established to effectively address the problem of deportation. This includes the development of binding international protocols for the search and return of children and the recognition of any attempt to assimilate deported persons as an automatic violation of the convention on the prevention of genocide. The prospects for further research in this area lie in a detailed study of repatriation processes, and the development of legal tools for holding private technology companies accountable for facilitating the dissemination of genocidal rhetoric. Special attention should be paid to the analysis of the possibilities of expanding the jurisdiction of international judicial institutions to qualify cyber discrimination and digital assimilation as components of the crime of genocide in hybrid conflicts.

Acknowledgements
None.

Funding
None.

Conflict of Interest
None.

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Трансформація механізмів міжнародно-правової відповідальності за геноцид у контексті російської агресії проти України: огляд літератури

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Анотація. Актуальність дослідження зумовлена глибокою кризою системи міжнародної безпеки та неспроможністю існуючих інституцій, зокрема Ради Безпеки ООН, оперативно запобігати актам геноциду в умовах російської агресії. Метою роботи був комплексний аналіз змін у механізмах міжнародно-правової відповідальності за геноцид та визначення шляхів подолання інституційних перешкод на прикладі війни в Україні. За допомогою діалектичного та історико-правового методів проаналізовано еволюцію міжнародного кримінального права; формально-юридичний підхід дозволив оцінити відповідність сучасних дій держави-агресора нормам Конвенції 1948 року та Римського статуту; застосування системного аналізу дозволило виявити зв'язок між цифровими наративами та практичною реалізацією геноцидного наміру. Встановлено, що право вето постійних членів Ради Безпеки Організації Об'єднаних Націй перетворилося на деструктивний інструмент уможливлення безкарності агресора, що потребує негайного реформування процедур голосування; обґрунтовано необхідність трансформації концепції «обов'язок захищати» з декларативної політичної доктрини в дієвий правовий алгоритм із чіткими критеріями міжнародного втручання; проаналізовано роль цифрових платформ у масштабуванні мови ворожнечі та встановлено, що алгоритмічне просування дегуманізуючого контенту має визнаватися формою підбурювання до геноциду; доведено, що примусове переміщення та русифікація українських дітей є заздалегідь спланованим актом біологічного та соціального знищення нації; визначено, що ордери Міжнародного кримінального суду створюють необхідну юридичну преюдицію, проте потребують доповнення спеціалізованими механізмами репатріації; запропоновано впровадження уніфікованих міжнародних реєстрів для фіксації злочинних актів у реальному часі. Отримані результати та сформульовані пропозиції можуть бути використані фахівцями у сфері міжнародного права, дипломатами та представниками правоохоронних органів для розробки стратегій переслідування за воєнні злочини та формування нових протоколів репатріації депортованих осіб

Ключові слова: міжнародні злочини; Римський статут; Рада Безпеки ООН; мова ворожнечі; примусове переміщення; репатріація дітей; правосуддя перехідного періоду

JOURNAL
«PHILOSOPHY, ECONOMICS AND LAW REVIEW»

Науковий журнал

Том 6, № 1, 2026

Відповідальний редактор:
А. Самотуга

Підписано до друку 30.04.2026 р.
Формат 60*84/8
Умовн. друк. арк. 12,1
Тираж: 300 прим.

Адреса видавництва:
Дніпровський державний університет внутрішніх справ
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Journal
“PHILOSOPHY, ECONOMICS AND LAW REVIEW”

Scientific Journal

Vol. 6, No. 1, 2026

Managing Editor:
A. Samotuha

Signed for print 30.04.2026.
Format 60*84/8
Conventional printed pages 12.1
Circulation 300 copies

Publishing Address:
Dnipro State University of Internal Affairs
49005, 26 Nauky Ave., Dnipro, Ukraine
dduvs@phelr.com.ua
https://phelr.com.ua/en
+380 679 88 51 46