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Research Article

THE STRUGGLE FOR CLASS RANKS AND PROSECUTOR'S DRESS DURING UKRAINIAN INDEPENDENCE: HISTORICAL, LEGAL, AND CULTURAL PERSPECTIVES

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CONFLICTS OF INTEREST

The author declares no conflict of interest of relevance to this topic.

DISCLAIMER

The author declares that she was not involved in the preparation of the analysed law draft and does not represent any views of the legislative or other state bodies. The author serves as an attorney-at-law, thus, this does not bind her and does not reflect in this study.

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THE STRUGGLE FOR CLASS RANKS AND PROSECUTOR'S DRESS DURING UKRAINIAN INDEPENDENCE: HISTORICAL, LEGAL, AND CULTURAL PERSPECTIVES

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Abstract This article is devoted to the problem of confrontation between researchers about the dress of Ukrainian prosecutors and whether prosecutors should have class ranks (special ranks, equated to military ranks and providing bonuses to salaries). This confrontation has lasted for more than 10 years. Ukrainian MPs have proposed legislative amendments to solve this problem, but the approaches of the proposals are in opposition to each other.

According to the Law of Ukraine 'On the Prosecutor's Office' of 19 September 2019, the Ukrainian Parliament, at the ninth convocation, completely abolished the class ranks and military-like dress of prosecutors. At the same time, a Draft Law on their restoration is being considered by the current session of the same parliament, and the initiators call their abolishment a 'premature mistake'. Regardless of the consequences of the consideration of this Draft Law, this issue may not be resolved in the near future in Ukraine, as it is an integral part of the worldview and culture of the pro-Western or Eurasian vector of the prosecutor's office.

The aim of the present piece of legal scholarship is to provide a report that is as informative as possible on the consistency between class ranks, prosecutor's dress, and the principles of justice, the functions of the prosecutor, and his/her role in the justice system in comparison with the approaches of other states. Moreover, it is important to advise the legislative initiatives, and the voice of parliamentarians since this issue has gained traction in the professional environment and in society.

The author analysed the issue of prosecutor's dress and class ranks in relation to various aspects – constitutional functions and roles of prosecutors, procedural law, comparative law, international law, incentive, as well as psychological, value-philosophical, cultural, and deontological aspects, etc.

The prosecutor's dress code of the Council of Europe's 47 member states has been clarified; it was found that only prosecutors from Russia, Azerbaijan, and Armenia have the military dress; in other countries, prosecutors wore a robe or business suit. Periods of transformation of the prosecutor's office had taken place in all the post-Soviet republics as a part of their European integration processes – Lithuania, Latvia, and Estonia, as well as Georgia and Moldova, abandoned the military dress of prosecutors as associate members of the EU.

The remuneration system of prosecutors in Poland and Germany is analysed in detail, where seniority, experience, qualifications, and position are taken into account in the 'rates' (Poland) or 'R levels' (Germany) of the basic salary of prosecutors. 'Rates' and 'R levels' are important only for calculating wages and are not analogous to class ranks.

Keywords: *prosecutor's class ranks, prosecutor's dress, prosecutor's uniform, prosecutor's mantle, prosecutor's dress code, judiciary, criminal procedure*

1 INTRODUCTION

After the collapse of the USSR and the proclamation of Ukrainian independence in 1991, a difficult process of transformation continues for all state institutions, which Ukraine inherited with the system and models of government from the Soviet era.

Since Ukraine's accession to the Council of Europe in 1995 and the signing of an association agreement with the EU in 2014, the reform of the justice system, the prosecutor's office, and law enforcement agencies has intensified to bring them closer to European standards. In particular, the prosecutor's office has been modernised not only in its internal essence (functions, structure, and powers) but also in the appearance and status of the prosecutor's office and prosecutors.

Amendments to the Ukrainian Constitution in the field of justice dated 2 June 2016 No. 1401-VIII¹ removed the prosecutor's office from the so-called fourth 'control and supervision' branch of government and included it in Section VIII 'Justice' and deprived the prosecutor's office of the general supervision and pretrial investigation functions. After the above-mentioned amendments, as well as the enshrinement of the European and Euro-Atlantic direction of Ukraine, in the Preamble of the Constitution of 7 February 2019 No. 2680-VIII,² the reverse 'innovation' of the prosecutor's office back to Soviet traditions seemed impossible.

However, nowadays, the Verkhovna Rada of Ukraine (hereinafter, the Verkhovna Rada, VRU) is considering Draft Law No. 3062 of 13 February 2020 on the return of class ranks and the prosecutor's uniforms, which was recently abolished by the parliament of the same convocation on 19 September 2019.

This situation shows that parliamentarians do not have strong beliefs on this issue. Instead, they are guided by likes/dislikes and intuition when choosing one approach or another in the legislative regulation of issues related to the prosecutor's dress. Legal science also does not contribute to the stabilisation of this issue, as research and publications, especially from a comparative legal perspective, on the prosecutor's dress and the peculiarities of their status in society are absent.

The aim of the present piece of legal scholarship is to provide a report that is as informative as possible on the consistency between class ranks, prosecutor's dress, and the principles of justice, the functions of the prosecutor, and his/her role in the justice system in comparison with the approaches of other states. It seems that this study could contribute to the rationality of future legislative initiatives and the choice of parliamentarians and help us to reach a consensus in the professional environment and society as a whole.

To do this, in the first section, an excursion into the recent history of the reform of the prosecutor's office is made, mainly focusing on class ranks and prosecutor's dress that will have historical value in the future. Next, the conclusions of parliamentary committees and

1 Law of Ukraine 'Amendments to the Constitution of Ukraine (Regarding Justice)' of 2 June 2016 No 1401-VIII <<https://zakon.rada.gov.ua/laws/show/1401-19#n2>> accessed 7 June 2021.

2 Law of Ukraine 'Amendments to the Constitution of Ukraine (concerning the strategic course of the state for the acquisition of full membership of Ukraine in the European Union and in the North Atlantic Treaty Organization)' of 7 February 2019 No 2680-VIII <<https://zakon.rada.gov.ua/laws/show/2680-19#n2>> accessed 7 June 2021.

expert institutions that are authorised to approve Draft Laws are collected and presented, as well as the opinions of deputies in defence of the idea of returning class ranks and prosecutor's uniforms. The next section is the largest and presents a detailed analysis of class ranks and prosecutor's dress in terms of constitutional, procedural, labour, international public law, comparative law, deontology, psychology, sociology, and philosophy of law approaches.

2 A RETROSPECTIVE REVIEW OF THE REFORM OF THE PROSECUTOR'S OFFICE OF UKRAINE DURING THE PERIOD OF INDEPENDENCE, WITH CLASS RANKS AND PROSECUTOR'S DRESS AS ELEMENTS

After the Act of Independence of Ukraine³ on 24 August 1991, the Verkhovna Rada of Ukraine, as a legislative body, began to create its own legal basis for the activities of key state bodies. Thus, on 5 November 1991, the Verkhovna Rada adopted the Law 'On the Prosecutor's Office',⁴ which enshrined the same functions, structure, and status of the prosecutor's office that it had in the USSR. This included Art. 47 of the Law, which stipulated that prosecutors, investigators of the prosecutor's office, and employees of scientific and educational institutions of the prosecutor's office are assigned class ranks depending on their positions and length of service. Art. 53 of the Law stipulated that prosecutors who are assigned class ranks have uniforms with appropriate decorations, which they get free of charge.

In accordance with Part 2 of Art. 47 of the Law, the procedure for assigning and depriving class ranks is determined by the Regulation on class ranks of employees of the Prosecutor's Office of Ukraine. The next day, 6 November 1991, the Verkhovna Rada approved the provision.⁵ The regulation establishes 10 class ranks, which are assigned in sequential order. As an exception, early assignment of the highest-class rank could be carried out for the exemplary performance of official duties, initiative in work, or other significant merits in work, taking into account the length of service (para. 2, item 4 of the Regulations). Prosecutors get class rank for life, and deprivation of class rank is possible upon dismissal of the prosecutor for vicious misconduct (para. 10 of the Regulation) or in case of conviction for a serious crime (Art. 37 of the Criminal Code of Ukraine 1960⁶).

Prosecutors receive salary supplements for class ranks (Art. 49 of the Law, para. 11 of the Regulation). According to the procedure of assignment, the system of hierarchy, and legal significance, class ranks of prosecutors have the status of special ranks, and, according to the resolution of the Presidium of the Verkhovna Rada of 29 June 1992 No. 2517-XII, these are equated to military ranks and special ranks of law enforcement officers.⁷

3 Resolution of the Verkhovna Rada of the Ukrainian SSR on the proclamation of Ukraine's independence 'Act of Independence of Ukraine' of 24 August 1991 No 1427-XII (the first edition of the Law) <<https://zakon.rada.gov.ua/laws/show/1427-12#Text>> accessed 7 June 2021.

4 Law of Ukraine 'On the Prosecutor's Office' of 5 November 1991 No 1789-XII <<https://zakon.rada.gov.ua/laws/show/1789-12/ed19911105#Text>> accessed 7 June 2021.

5 Resolution of the Verkhovna Rada of Ukraine 'On approval of the class ranks of prosecutors Ukraine' of 6 November 1991 No 1795-XII <<https://zakon.rada.gov.ua/laws/show/1795-12/ed19911106#Text>> accessed 7 June 2021.

6 Criminal Code of the Ukrainian SSR of 28 December 1960 (expired on September 1, 2001) <http://search.ligazakon.ua/l_doc2.nsf/link1/KD0006.html> accessed 7 June 2021.

7 Resolution of the Presidium of the Verkhovna Rada of Ukraine 'On establishment of a ratio between class ranks of employees of Office of Public Prosecutor of Ukraine and military ranks and special ranks of employees of law-enforcement bodies of Ukraine' of 29 June 1992 No 2517-XII <<https://zakon.rada.gov.ua/laws/show/2517-12#Text>> accessed 7 June 2021.

For reference and illustration, the system of class ranks looked like this:

Class rank	Term	Relevance to the position of prosecutor	Compliance with military rank ⁸	Subject of assignment
3rd class lawyer	2 years	assistants to city and district prosecutors, depending on the length of service	lieutenant	Prosecutor General of Ukraine
2nd class lawyer	2 years		senior lieutenant	
1st Class Lawyer	3 years		captain	
Junior Justice Counsellor	3 years	assistant prosecutors, prosecutors of departments and divisions in regional prosecutor's offices, deputy prosecutors of cities and districts, senior assistant prosecutors,	major	President of Ukraine ⁹
Counsellor of Justice	4 years	prosecutors of departments and divisions of the General Prosecutor's Office, city prosecutors, deputy city prosecutors	lieutenant colonel	
Senior Justice	4 years	city prosecutors, deputy regional prosecutors	colonel	
3rd Class State Counsellor of Justice	not specified	regional prosecutors, first deputy regional prosecutors, heads, and deputy heads of departments of the General Prosecutor's Office	major general	
2nd class State Counsellor of Justice		Deputy Attorneys General, regional prosecutors	lieutenant general	
1st Class State Counsellor of Justice		First Deputy Prosecutor General of Ukraine	colonel-general	
State Counsellor of Justice		Prosecutor General of Ukraine	general of the Army of Ukraine	

Thus, the class ranks of prosecutors have the same purpose, legal nature, and essence as military ranks and reflect the same internal system of subordination and hierarchy. After all, military ranks establish the relationship of subordination and seniority between military personnel (except for subordination by position): one who has any senior military rank is authorised to provide commands to other military officers to a certain extent.

By joining the Council of Europe on 9 November 1995, Ukraine undertook the obligation to bring the prosecutor's office up to European standards, in particular: to abandon the idea of the prosecutor's office as a 'guard dog' of public administration; to abandon the uncharacteristic function for the prosecutor's office of general supervision of legality in a democratic society; to abandon the excessive centralisation combined with the Prosecutor General's dependence on parliamentary confidence (as a purely political tool), which hinders the independence of prosecutors; to abandon a militarised structure with internal unconditional subordination of

⁸ *ibid.*

⁹ Law of Ukraine 'On the Prosecutor's Office' (n 4) (Art. 47).

prosecutors to their chiefs, which was formed in Soviet times;¹⁰ and to turn the prosecutor's office into a horizontal institution.

Since then, almost all political forces that have come to power have declared their intention to change the prosecutor's office and 'bring it in line with democratic Western standards'. But only with the adoption of the new Law of Ukraine 'On the Prosecutor's Office'¹¹ on 14 October 2014 was a real reform of the prosecutor's office launched. The previous six unsuccessful attempts to reform the Ukrainian prosecutor's office at the stage of Draft Laws have been devastatingly criticised by the Venice Commission for

the special role given to the principles of unity and centralization of the prosecutor's office modeled on Soviet-style "prosecutor's offices"; for the fact that lower-ranking prosecutors do not have sufficient guarantees of independence or independent performance of their functions (para. 13 of the Opinion).¹²

Art. 3 of the current Law 'On the Prosecutor's Office' of 14 October 2014, which defines the principles of the prosecutor's office activity, for the first time in the history of independent Ukraine, did not establish the principle of unity of command and centralisation. Obviously, to be consistent with the rejection of the unity of command and centralisation principle, the legislator went further and (unlike all versions of the 1991 Law, which regulated the status of the prosecutor's office) the 2014 Law did not have articles on the class ranks of prosecutors, their designation on the prosecutor's dress, and their impact on the remuneration of the prosecutor.

The conclusion of the Venice Commission in this part of the Draft Law of 2013, which became the Law of 14 October 2014, was approving, although in general, the historical tradition of the domestic prosecutor's office remained centralised in many aspects due to other provisions of the Law. In particular, in para. 194 of the conclusion, the Venice Commission stated: 'the removal of the article on the official prosecutors' dress' is characterised as 'the implementation of significant progress in meeting the requirements of Council of Europe standards'.

So, the Law of 2014 abolished the class ranks of prosecutors and the prosecutor's dress for the future. According to the principle of the 'direct effect of the law in time', the assignment of class ranks to prosecutors ceased, and, in accordance with Art. 81 of the Law, they are no longer taken into account as a basis for additional payments in the prosecutor's remuneration.

Thus, the demilitarisation and transformation of the prosecutor's office into a European-style civil service was one of the achievements of the prosecutor's office reform in recent years. The prosecutor does not need incentives in the form of class ranks, which are military in nature, for the effective performance of his/her duties due to the nature of the functions performed, namely, the procedural management of pretrial investigation and the maintenance of public prosecution in court.

However, for those prosecutors who had already been assigned class ranks by the time the Law came into force in 2014, subpara. 1 of para. 3 of Section XII (final provisions) of the 2014 Law remained in force according to Art. 47, part 1 of Art. 49, part 5 of Art. 50, parts 3, 4, 6, 11 of Art. 50-1, part 3 of Art. 51-2, p. 53 of the 1991 Law on class ranks. That means that prosecutors who were assigned class ranks before the entry into force of the new Law continued to receive allowances for class ranks in accordance with part 1 of Art. 49 of the 1991 Law.¹³ The Cabinet of Ministers approved the number of class allowances.

10 Conclusion on the Draft Law of Ukraine 'On the Prosecutor's Office' (CDL-AD (2009) 048), paras 5-6, 21, 28-30) <https://minjust.gov.ua/m/str_23374> accessed 7 June 2021.

11 Law of Ukraine 'On the Prosecutor's Office' of 14 October 2014 No 1697-VII <<https://zakon.rada.gov.ua/laws/show/1697-18#Text>> accessed 7 June 2021.

12 Conclusion on the Draft Law of Ukraine 'On the Prosecutor's Office' adopted by the Venice Commission at its 96th Plenary Session (Venice, 11-12 October 2013) <<https://rm.coe.int/1680097f7d>> accessed 7 June 2021.

13 Law of Ukraine 'On the Prosecutor's Office' (n 4) (Art. 47).

On 18 April 2018, the Council of Prosecutors of Ukraine decided to address the Prosecutor General with a proposal to initiate amendments to the Law of Ukraine 'On the Prosecutor's Office' on the possibility of assigning class ranks to prosecutors working in the Prosecutor's Office of Ukraine and initiating compliance with the Resolution of the Verkhovna Rada of 6 November 1991 'On Approval of the Regulations on Class Ranks of Employees of the Prosecutor's Office of Ukraine', in accordance with the requirements of current legislation.¹⁴ The Council of Prosecutors justified the decision by the fact that 'the lack of class ranks of prosecutors and the procedure for equating them to a special or military rank makes a difference in approaches to material and social security of prosecutors, disciplinary responsibility and encouragement, which negatively affects the unity of the system of prosecutors of Ukraine'.

In addition, the Council of Prosecutors referred to 'scientific opinions of leading higher law schools'. However, unfortunately, there are no academic publications about the class ranks of prosecutors in open access, which would indicate at least some scientific interest in this topic. Therefore, I wonder how comprehensive and modern (comparative) these scientific opinions can be.

However, there is a real reason to agree that the approach of the Law of 2014 was discriminatory in the remuneration of prosecutors: 1) hired after the entry into force of the Law (26 October 2014) or who at the time of its entry into force held prosecutorial positions but did not have acquired class ranks; 2) which were assigned class ranks until 26 October 2014, and for which the salary supplement was retained. At the same time, for the second category of prosecutors, the allowance for class ranks became fixed (frozen), as prosecutors lost the opportunity to increase class rank. Further, demotion in class rank ceased to be a disciplinary sanction (Art. 49 of the Law). Therefore, in terms of class allowances, the approach of the Final Provisions of the Law 2014 contradicted the uniform status of prosecutors in Ukraine (part 2, Art. 15 of the Law).

Is the argument that the two approaches to the remuneration of prosecutors are discriminatory an automatic justification and a sufficient basis for the reinstatement of prosecutor's class ranks? Of course not. This is exactly what the legislator decided by the Law 'On Amendments to Certain Legislative Acts of Ukraine Concerning Priority Measures to Reform the Prosecutor's Office'¹⁵ of 19 September 2019 No. 113-IX. Most notably, this Law is one of the most profound and reformist versions of the Law 'On the Prosecutor's Office' of 2014 during the two dozen changes and additions to it. Thus, the Law (dated 19 September 2019) finally abolished the class ranks of prosecutors and the prosecutor's dress, recognising the following points as invalid in part 2 of Section II (Final Provisions): para. 8 of Part 1 of Art. 15, part 4 of Art. 16, para. 1 part 2 Art. 46-2, Art. 47, part 1 of Art. 49; Part 5 of Art. 50, part 3 of Art. 51-2, and Art. 53 and Art. 55 of the Law 'On the Prosecutor's Office' of 1991, with the following amendments, as well as the Resolution of the Verkhovna Rada of 6 November 1991 'On Approval of the Regulations on Class Ranks of Employees of the Prosecutor's Office of Ukraine'.¹⁶

Since then, prosecutors not only have not received class ranks but also class ranks that they held have been abolished. This means that prosecutors who were assigned ranks before 2014 are considered prosecutors without class ranks. The media reported that the Law 'permanently **deprives prosecutors of class ranks – analogues of officer ranks**, which were

14 Decision of the Council of Prosecutors of Ukraine 'On taking measures to initiate amendments to current legislation on the possibility of assigning class ranks to prosecutors' of 18 April 2018 No 30 <<https://rpu.gp.gov.ua/ua/rishenya/vdiyalnist.html>> accessed 7 June 2021.

15 Law of Ukraine 'On Amendments to certain legislative acts of Ukraine concerning priority measures to reform the Prosecutor's Office' of 19 September 2019 No 113-IX.

16 Resolution of the Verkhovna Rada of Ukraine 'On approval of the class ranks of prosecutors Ukraine' of 6 November 1991 No 1795-XII <<https://zakon.rada.gov.ua/laws/show/1795-12/ed19911106#Text>> accessed 7 June 2021.

perceived as *vestiges of the Soviet past and signs of militarization of the prosecutor's office*.¹⁷ Thus, class ranks should become history, a historical artefact (an object of material culture), along with the prosecutor's dress (where it was used at the discretion and initiative of individual prosecutors in the interim period from 2014–2019).

3 DRAFT LAW (NO. 3062 OF 13 FEBRUARY 2020) ON THE RESTORATION OF CLASS RANKS AND UNIFORMS OF PROSECUTORS

The struggle for the class ranks and uniforms of prosecutors is still ongoing. Thus, on 13 February 2020, a group of MPs of the Verkhovna Rada (V. M. Neklyudov, Yu. G. Yatsyk, O. S. Bakumov, etc.) submitted to the Verkhovna Rada a Draft Law 'On Amendments to the Law of Ukraine "On the Prosecutor's Office" to increase the efficiency of the prosecutor's bodies activity' (No. 3062). This Draft Law, among other things, proposes: to return the assignment of class ranks to prosecutors in the manner approved by the Verkhovna Rada and determine the grounds for deprivation of these class ranks; provide payments to prosecutors of the monthly allowance for class rank in accordance with the procedure approved by the Cabinet of Ministers; provide prosecutors' uniforms free of charge, with appropriate honours for prosecutors who have been assigned class ranks.¹⁸

3.1 Passing the regulatory procedure

On 13 March 2020, the Main Scientific and Expert Department of the Verkhovna Rada (hereinafter, the GNEU of the Verkhovna Rada) issued an opinion on the aforementioned Draft Law, which was generally approving: 'according to the results of consideration in the first reading, the Draft Law can be adopted as a basis, taking into account the comments and suggestions'. Among the remarks of the GNEU of the Verkhovna Rada was the following: 'the doubtfulness of the idea of returning prosecutor's uniforms to prosecutors with class ranks' because of the previous opinions of the Venice Commission on this issue. In addition, the GNEU of the Verkhovna Rada argued

Unlike the assignment of class ranks, prosecutor's uniform is not associated with incentives for quality work and a career in government bodies. The prosecutor's uniform in most cases is associated with *special conditions of its use* in the implementation of the functions of a state body. The special uniform is proposed for making of the maximum comfort for the performance of professional tasks in difficult conditions. Taking the functions of the modern prosecutor's office into account, the need for employees' uniforms can be purely psychological.¹⁹

On 15 July 2020, the Verkhovna Rada Committee on Law Enforcement Activities issued an opinion, noting, 'The adoption of this Draft Law will help increase the efficiency of

17 A Lapkin, 'Prosecutor's Office Reform: Prosecutor General with legal education, plus 'fresh blood', minus the military prosecutor's office' (23 September 2019) <<https://hromadske.ua/posts/reforma-prokuraturi-genprokuror-iz-yuridichnoy-osvityu-plyus-svizha-krov-minus-vijskova-prokuratura>> accessed 7 June 2021.

18 Draft Law 'On Amendments to the Law of Ukraine "On the Prosecutor's Office" to increase the efficiency of the prosecutor's office' 13 February 2020 No 3062 <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68135> accessed 7 June 2021.

19 See 'Conclusion of the Main Scientific Expert Department 13 February 2020 on Draft Law on Amendments to the Law of Ukraine "On the Prosecutor's Office" to increase the efficiency of the prosecutor's office' of 13 February 2020 No 3062 <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68135> accessed 7 June 2021.

the prosecutor's office bodies and stimulate the work of prosecutors, the pursuit of career growth', and recommended taking the Draft Law as a basis as a result of consideration in the first reading.²⁰

On 2 February 2021, the Draft Law was included in the agenda of the 1164-IX 5th session of the Verkhovna Rada.

3.2 Arguments 'for' class ranks and prosecutor's dress

1) The authors of Draft Law 3062 wrote in the explanatory note to the Draft Law that

the return of the mechanism of assigning class ranks and prosecutor's uniform would stimulate the work of prosecutors and, in addition, would discipline other participants in criminal proceedings in the performance of his duties as a prosecutor and will promote respect for his procedural status. Also, assignment of ranks (classes, special ranks, etc.) provided by the Laws of Ukraine "On Diplomatic Service", "On Civil Service", "On Service in Local Self-Government Bodies", "On National Police", "On military duty and military service", etc., discriminates against the rights of prosecutors along with other public service employees. The Law of Ukraine "On the Prosecutor's Office" is almost the only one in Ukraine that regulate the conduct of professional public and civil service (except for political positions), which does not provide such an element of a career as the possibility of assigning class ranks (ranks, special titles, etc.). Therefore, in our opinion, the possibility of assigning class ranks to prosecutors should be preserved, as it is one of the effective mechanisms for improving the skills of prosecutors, ensuring high quality and effectiveness of their performance.²¹

2) On 25 February 2020, MPs H. Mamka, Deputy Chairman of the Verkhovna Rada Committee on Law Enforcement Activities (Opozytsiina Platforma 'Za Zhyttia' faction), PhD, published an article in the 'Yurydychnii Hazeti', in which he set out the following arguments

In order for certain professional "activists" not to spread the information about another "betrayal" that this draft law allegedly hinders the reform of the prosecutor's office, I decided (as one of its co-authors) to explain its main provisions. Class ranks are personal ranks assigned to employees of the prosecutor's office in accordance with their position and work experience, because they indicate the official and professional growth of the employee. The keyword in this is motivation! Because of the fact that class rank symbolizes the experience, qualifications and professional path that a person has taken in the prosecutor's office. Of course, this should include monthly allowances for class rank. Because no one argues in the private sector, that for experience, contribution to the work of the company or the quality of work should be paid a higher salary? So are the people, who work in the prosecutor's office worse? Ranks, by the way, are also a system of punishment for negligent work. ... There is also a discussion about prosecutor's uniform, which, according to the "activists" opinion, cannot be returned to prosecutors. It reminds me of certain historical events after 1917... And those who oppose the prosecutor's uniform remind me of the Bolsheviks of the level of argumentation ...²²

20 See 'Conclusion of the Main Scientific Expert Department' (n 19).

21 Explanatory note to the Draft Law of 13 February 2020
<http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68135> accessed 7 June 2021.

22 Hryhoriy Mamka 'Draft law No 3062: Motivation and Discipline of Prosecutors' <<https://yur-gazeta.com/publications/practice/inshe/zakonoproekt-3062-motivaciya-ta-disciplina-prokuroriv.html>> accessed 7 June 2021.

3) The Prosecutor General of Ukraine, I. Venediktova, supported the legislative initiative

We need to take care of the honor of the prosecutor's uniform. This step will restore the prestige of the prosecutor's office and encourage employees to perform their professional duties even more effectively. The class rank symbolizes the experience, qualifications and professional path that the employee has passed in the prosecutor's office.²³

4) V. Neklyudov, Chairman of the Subcommittee on the Activities of the Prosecutor's Office of the Verkhovna Rada Committee on Law Enforcement, Political Party 'Sluha Narodu' explains

The abolition of class ranks and prosecutor's uniform in the prosecutor's office as a result of its reform was a reaction to the need of making the prosecutor's office more civilian, devoid of elements of any departmental separation with attributes of "militarism". However, this decision was wrong and hasty, a superficial look at the issue. The class ranks is an ancient tradition of civil service, which was adapted from the examples of European states. Class rank and prosecutor's dress were not an invention, created only for prosecutors, but once were a part of the entire civil service system.²⁴

4 ANALYSIS OF THE IDEA OF RETURNING CLASS RANKS AND PROSECUTOR'S DRESS IN THE PROSECUTOR'S OFFICE OF UKRAINE

The author is aware that at the time of publication, the Ukrainian Parliament may have either approved or rejected Draft Law 3062. However, regardless of the consequences of its parliamentary procedure, this legislative initiative on class ranks and the prosecutor's uniform will not be final in the near future, as there are both staunch supporters and opponents of this idea in Ukraine. Therefore, the idea and legislative initiatives to restore or abandon the class ranks and prosecutor's uniform will rise again and again until the view of this issue in the professional community of lawyers and in society as a whole becomes more or less unanimous. At the same time, ideological instigators and lobbyists, as well as opponents of this idea, are mostly guided by intuitive likes or dislikes in their views and arguments. The task of scholarship, instead, is to give a rational report on the advantages and disadvantages of approaches in other countries to the regulation of the prosecutor's dress and class ranks, their consistency with the principles of justice, the functions of the prosecutor, and his/her social role in justice and society as a whole, etc. Therefore, we will try to analyse the issues of the prosecutor's dress and class ranks from various aspects – comparative law, constitutional functions, and role of the prosecutor's office, as well as procedural, international law, incentive (labour, material), value-philosophical, ontological, and other aspects.

4.1 The international law aspect (*pacta sunt servanda*)

The international legal aspect has become the main foreign and domestic political catalyst for the reform of the prosecutor's office in Ukraine. By joining the Council of Europe on 9 November 1995, Ukraine undertook the obligation to bring the prosecutor's office up to European standards. The signing by Ukraine of the Opinion No. 190 (1995) of the

23 Prosecutor General Iryna Venediktova discussed with people's deputies proposals for amendments to the Law of Ukraine 'On the Prosecutor's Office' <https://www.gp.gov.ua/ua/news?_m=publications&_t=rec&id=269702> accessed 7 June 2021.

24 'Class ranks are not for generals, but for ordinary prosecutors' <https://censor.net/ru/blogs/3253460/klasn_chini_ne_dlya_generalv_a_dlya_prostih_prokurorv?fbclid=IwAR265VU64JDERZAM5RJvZOHUYjmC7iR6aPAXrdDpGtRhtjTd2tnAy9773Hg> accessed 7 June 2021.

Parliamentary Assembly of the Council of Europe on Ukraine's application to join the Council of Europe (Strasbourg, 26 September 1995) preceded this.

In accordance with para. 11 of Conclusion No. 190 in the context of the assurances of the state highest officials (the letter of the President of Ukraine, the Speaker of Parliament, and the Prime Minister of Ukraine of 27 June 1995) and on the basis of the following, the Assembly considers that according to Art. 4 of the Statute of the Council of Europe, Ukraine is able and willing to perform the duties of a member of the Council of Europe, defined in Art. 3

Every member of the Council of Europe must recognize the principles of the rule of law and the fulfillment of human rights and fundamental freedoms by all people under its jurisdiction, and must cooperate sincerely and effectively in achieving the Council's purpose.

In accordance with subpara. 6 of para. 11, Ukraine undertook that

the role and functions of the Prosecutor General's Office would be changed (especially with regard to the exercise of general control over the rule of law) by transforming this institution into a body in line with Council of Europe standards.²⁵

Later, during the development of Draft Law on the reform of the prosecutor's office, Ukraine sent it to the Venice Commission²⁶ of the Council of Europe to monitor it from the point of view of the rule of law and the observance and strengthening of democratic institutions.

In the opinions on the Draft Laws, the Venice Commission regularly reminded Ukraine of the excessive centralisation of the prosecutor's office and the need to strengthen the independence of prosecutors and abandon the function of general oversight and the militarised structure with internal unconditional subordination of prosecutors to its chiefs, which was formed during the Soviet period and turn the prosecutor's office into a 'horizontal institution'.²⁷

Since then, up to a dozen Draft Laws have been drafted in Ukraine to reform the prosecutor's office, which the Venice Commission devastatingly criticised at the stage of Draft Laws. Finally, the Venice Commission gave a positive opinion on the Draft Law of 2013, which became the Law 'On the Prosecutor's Office' of 14 October 2014.

Of course, the Verkhovna Rada does not send like 3062, relating to certain issues of the activity of the prosecutor's office to the Venice Commission for monitoring Draft Laws. At the same

25 Opinion No 190 (1995) of the Parliamentary Assembly of the Council of Europe on Ukraine's application to join the Council of Europe, Strasbourg, 26 September 1995
<https://zakon.rada.gov.ua/laws/show/994_590?fbclid=IwAR2D6U-iwzHgBXv7chyUFXWWG-Od2MuEhkB7QapBl08400SHgqURerJZN8#Text> accessed 7 June 2021.

26 The European Commission for Democracy through Law – better known as the Venice Commission, where it meets, – is an advisory body of the Council of Europe on constitutional matters. The mission of the Venice Commission of the Council of Europe is *to provide legal advice* to its member states and, in particular, to assist those who wish to bring their legal and institutional structures in line with international standards and experience, in matters of democracy, human rights and the rule of law. The full name of the Commission is '*European Commission for Democracy through Law*'. It also contributes to *the dissemination and development of a common constitutional heritage*, plays a unique role in conflict management and provides 'emergency constitutional assistance' to states in transition. The Commission comprises 62 member states: the 47 member states of the Council of Europe are members of the Venice Commission, as well as 15 other countries (Algeria, Brazil, Canada, Chile, Republic of Korea, Costa Rica, the United States, Israel, Kazakhstan, Kyrgyzstan, Kosovo, Morocco, Mexico, Peru and Tunisia). For more about the status, structure, competence of the Venice Commission, see Venice Commission: Council of Europe <https://www.venice.coe.int/WebForms/pages/?p=01_Presentation&lang=EN> accessed 7 June 2021.

27 Conclusion on the Draft Law of Ukraine 'On the Prosecutor's Office' (CDL-AD (2009) 048), paras 28-30; 5-6 <https://minjust.gov.ua/m/str_23374> accessed 7 June 2021.

time, first implementing and complying with the requirements of the Venice Commission in the main Law, and then deviating from to make some amendments to the Law and return to our own long military tradition of the prosecutor's office is a kind of tactical trick and a move away from international agreements. For example, such a scheme was implemented by the legislator on the issue of bonuses in the remuneration of prosecutors, when, on the recommendation of the VC, the legislator did not provide it in the first (main) version of the Law of 2014, and later, in 2015, quietly returned bonuses to prosecutors (see para. 4.5).

4.2 The constitutional-functional aspect

According to the Constitution of Ukraine in the version of 2 June 2016, the public prosecution and the advocacy are referred to the sphere of justice as its constituent elements (Arts. 131-1, 131-2 of Section VIII 'Justice'). Independence (external and internal), freedom of expression, and personal maturity (regardless of the reasoning, senior position, or the presence of more experienced colleagues) based on one's own knowledge, free evaluation of evidence, inner conviction, and the ability to independently make procedural decisions and qualitatively substantiate them are fundamental components for the effective performance of their functions (prosecution, defence, justice) for three legal professions in the field of justice. From the point of view of the sociocultural factor of relations, the class rank is an element of the culture of rank-veneration – the junior honouring the senior because of the rank, class, etc. As a result, class ranks subconsciously stimulate a culture of veneration. According to the cyclical pattern, 'the system is formed by people, and the system forms the person'. Therefore, to ensure *internal independence* – as a fundamental principle of building a system of relations within the corporate community of judges, prosecutors, and lawyers – for officials of these professions, their common legal status, lack of hierarchy, subordination, and dependence (including psychological and ethical) in decision-making processes are especially important. Thus, the specific legal status of judges and prosecutors is enshrined in the relevant laws.

It is worth recalling that from the Soviet period until 2010, judges in Ukraine were also assigned qualification classes – higher, first, second, third, fourth, and fifth (Art. 88 of the Law 'On the Judiciary and the Status of Judges' of 2002,²⁸ which expired under the Law of 2010²⁹). However, the judiciary has painlessly departed from the tradition of qualifying classes. The answer to the question of what influenced the perception of the judiciary to abandon qualifications – their own legal awareness, understanding of the place and mission of judges in the state and society, awareness of international standards of judicial status, training, and educational activities with international organisations in the field of justice – has yet to be answered. Nevertheless, the fact is that the qualification classes of judges have become outdated, and judges no longer mention it.

Thus, the argument in the explanatory note to Draft Law 3062 on discrimination against prosecutors in their careers due to the impossibility of class promotion (rank, special rank) compared to other public or professional public service³⁰ is irrelevant, contrary to the nature of the prosecutorial activity.

28 Law of Ukraine 'On the judiciary and the status of judges' of 7 February 2002 No 3018-III <<https://zakon.rada.gov.ua/laws/show/3018-14#o705>> accessed 7 June 2021.

29 Law of Ukraine 'On the judiciary and the status of judges' of 7 July 2010 No 2453-VI <<https://zakon.rada.gov.ua/laws/show/2453-17#Text>> accessed 7 June 2021.

30 Explanatory note to the Draft Law of 13 February 2020 <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68135> accessed 7 June 2021.

4.3 The procedural aspect

The prosecutor indicated the class rank in all his/her procedural documents, in the documents of the investigator with his/her consent (visa) during the period of the existence of class ranks. Of course, the reference to the class rank contains information about the author of the document – whether the person is a beginner in the prosecutor's office (third-class lawyer), an experienced prosecutor (10-year justice counsellor), or a high-ranking prosecutor in the prosecutor's office (third-first class State Counsellor of Justice). This information about the author of the document **overemphasises the court's attention** from assessing **the motivational part of the document and the prosecutor's arguments to the external factor – the status (regalia) of the prosecutor.**

From the point of view of the legal awareness, social maturity, and psychological stability of a judge, this factor should not influence his/her decision-making. Still, such influence is possible. Moreover, in real life, it may be tendentious, especially in situations when a young, early-career judge reviews petitions/acts of high-class position prosecutor. Thus, from the point of view of the **procedural principle of free evaluation of evidence**, the meaning of class ranks in the procedural documents of the prosecutor, as well as his/her participation in court hearings in the prosecutor's dress with rank designations is undesirable, as it may have a suggestive psychological influence on the court decision-making process. In addition, para. 1 of Part 2 of Art. 129 of the Constitution of Ukraine enshrines **the equality of all participants in the trial before the law and the court** as a principle of justice. Also, Art. 22 of the Ukrainian CPC enshrines **the principle of procedural equality and adversarial proceedings** between the prosecution and the defence. So, from *the point of view of the principle of procedural equality of the parties and adversarial proceedings*, what regalia and honours should a defender indicate in his/her procedural documents in order to balance his/her status with the prosecutor? – Is that the information about awarded honours, letters of gratitude from the National Bar Association of Ukraine, information that he/she is included in various rankings of the top 50 or top 100 lawyers of Ukraine, or has the honorary title of 'Honored Lawyer of Ukraine' or other state and non-state awards? Is the purpose of the court competition appropriate and reasonable according to the status merits of the parties? Alternatively, are such competitions not only inappropriate and unnecessary but also harmful, as they distract the court from analysing **the arguments** of the parties? *From the point of view of the principle of equality before the law and the court*, it is possible that the suspect or accused might express dissatisfaction: Why is the head of the pretrial investigation or public prosecutor in their trial a new prosecutor (3rd or 2nd class lawyer) instead of a justice counsellor, like the person appointed for other defendants?

4.4 The financial (material) aspect

Undoubtedly, a decent salary is the best incentive (encouragement) for effective work in the prosecutor's office and attracting new staff.

The authors of Draft Law 3062 use this well-known argument, justifying the need to preserve class ranks

It is extremely important to involve highly professional, impartial, honest, decent employees, who are able to resist attempts to improperly influence their official activities. Achieving this goal is possible due to the incentives in the work of prosecutors (decent wages, adequate material support, favourable working conditions, etc.)... (para. 2, section 1 of the Explanatory Note)³¹

31 Explanatory note dated 13 February 2020 to the Draft Law of Ukraine 'On Amendments to the Law of Ukraine "On the Prosecutor's Office" to improve the efficiency of the prosecutor's office' <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68135> accessed 7 June 2021.

I propose to analyse what the material support of prosecutors really is and if the quotation from the Explanatory Note is a logical basis for the conclusion about the need for additional material incentive in the form of surcharges for class ranks.

The Law of 19 September 2019, which finally abolished class ranks, raised the prosecutors' basic salaries from 12 to 15 and from January 2021 to 20 subsistence minimums for able-bodied persons. Thus, the minimum salary of prosecutors gradually increased from UAH 22,200 in 2019 to UAH 30,000 and UAH 40,420 in 2021 – a growth rate of 1.8 times the original salary.

As we can see, *firstly*, the salaries of prosecutors have almost doubled, and no allowance for class rank can or will affect a salary increase of 1.8 times the original amount. *Secondly*, UAH 40,420 is the minimum basic salary (gross) without taking into account other surcharges and, in accordance with Part 2 of Art. 81 of the Law 'On the Prosecutor's Office' in its current version, the salary of the prosecutor consists of the salary and surcharges for: 1) years of service; 2) performance of duties in an administrative position and other payments provided by the legislation; 3) bonuses. Therefore, the real salary of prosecutors can reach twice as high. *Thirdly*, in terms of the average salary in Ukraine – 12,337³² as of January 2021 – the salary of prosecutors is quite decent because it is at least four times and a maximum of 10 times higher than the average income of employees in Ukraine (the ratio is from 1:4 to 1:8). In addition, basic salaries and total salaries of prosecutors are significantly higher than the basic salaries and salaries of civil servants. In particular, taking into account the categories, subcategories, and levels of state bodies in 2021, salaries in civil service positions are set from UAH 4,540 for an employee of district public authorities to UAH 37,800 for the head of a state body (Chief of Staff of the Verkhovna Rada, Chief of the Secretariat of the Cabinet of Ministers, heads of ministries, departments, etc.).³³ As we can see, the minimum salary of district prosecutors (the lowest level) (UAH 40,420) exceeds the highest salaries (UAH 37,800) in the highest civil service (category A – heads of ministries, departments). Consequently, the current level of prosecutors' salaries is clearly an expression of prestige and an assessment of the state of the complexity of prosecutorial work, a serious motive for the attractiveness of work in the prosecutor's office and its effectiveness in terms of fear of losing a job for improper performance. *Fourthly*, the salaries of Ukrainian prosecutors are the highest among the salaries of prosecutors in neighbouring countries in terms of average salaries.

For example, in accordance with Arts. 123 and 124 of the Statute 'Law on the Prosecutor's Office', 11 rates could be applied for the calculation of salaries of prosecutors of Poland, which are the same for prosecutors and judges of the relevant judicial instance (Art. 127) and are tied to the average salary using a multiplier.³⁴

This multiplier is set from 2.05 to 4.13 by the Regulation of the Council of Ministers of 2 April 2010 'On the basic remuneration of prosecutors and the amount of functional allowances for public prosecutors'.³⁵ So, the correlation of the average salary in Poland to the salary of prosecutors is from 1:2 for beginning prosecutors of district prosecutor's offices to 1:4 for the prosecutor general. The Central Statistical Office of Poland publishes monthly reports on average earnings. Thus, in January 2021, the national average salary was PLN 5,973.75

32 Ministry of Finance, 'The average monthly salary in the regions of Ukraine in January 2021' <<https://index.minfin.com.ua/ua/labour/salary/average/2021-01/>> accessed 7 June 2021.

33 'The Scheme of Salaries of Civil Servants for 2021 has been approved' (13 January 2021) <https://nads.gov.ua/news/zatverdzheno-shemu-posadovih-okladiv-derzhsluzhbovciv-na-2021-rik?fbclid=IwAR2WEnofyd1kPBltI56YGnUYWPNsf7fMgflQ_-216MHuTwXemqO-g_Uwc0> accessed 7 June 2021.

34 Prawo o prokuraturze. Ustawa z dnia 28 stycznia 2016 r. Aktualna 19.01.2021 r. <<http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000177/U/D20160177Lj.pdf>> accessed 7 June 2021.

35 Prokurator zarabia conajmniej 6 tys. PLN na rękę. 01.09.2014 Maria Hajec. <https://wynagrodzenia.pl/artykul/prokurator-zarabia-co-najmniej-6-tys-pln-na-reke?fbclid=IwAR01kjaVwa8ow8XCfb3ieGvKJQXzCuGcPeH1ViTslvc_y9DxO-7DgIPeQ> accessed 7 June 2021.

gross (equal to €1,314), in 2020 – PLN 5,411.45 gross, and, according to forecasts in 2022, is expected to exceed PLN 6,000.00 gross.³⁶

With the average salary of full-time employees in Germany was €3,975³⁷ (gross) as of December 2020, the initial minimum salary for prosecutors is €3,470 – €3,860, and the average is €9,400.³⁸ At the same time, the work of a prosecutor is the most prestigious and popular among legal professions in Germany (42 candidates for the position with the highest scores [minimum 9 out of 10] for the state exam in law).³⁹ Thus, the ratio of the initial salary of a prosecutor to the average salary in Germany is almost 1:1, which increases with the length of service and career of a prosecutor to an average of 1:2.3 and a high of 1:3.7.

To summarise: a) the abolition of allowances for class ranks in 2019 should not be considered in isolation, but as part of the whole material support of prosecutors; b) the abolition of class rank allowances in 2019 did not have a bad influence on the prosecutors' financial situation in Ukraine– on the contrary, it significantly improved due to higher salaries; c) prosecutors' salaries are 4-10 times higher than the average salary in Ukraine, and the minimum salary of the lowest level prosecutor exceeds the highest possible salary in the highest categories employees of the civil service; d) prosecutors' salaries in Ukraine are twice as high as the salaries of their colleagues from Poland and Germany in relation to the average salaries in these countries. Thus, the complaints that the material support of prosecutors is insufficient and requires additional motivation by setting allowances for class ranks are surprising and detached from the reality and proportionality of income in the country.

4.5 The encouraging (stimulating) aspect

Next, it is necessary to find out how the prosecutor's salary reflects his/her experience (experience), professional path, qualification, the performance of tasks of increased complexity, and performance of managerial functions.

As already mentioned, Art. 81 of the Law 'On the Prosecutor's Office' in its current version provides for **three types of additional payments** to the basic salary: **a) for years of service**, which is differentiated depending on the length of prosecutorial experience – this type encourages people not to change job, **b) for administrative duties**, **c) bonuses**.

Part 7 of Art. 81 contains nine gradations of surcharges for years of service: if you have more than one year of service – 10%, more than three years – 15%, more than five years – 18%, more than 10 years – 20%, more than 15 years – 25%, more than 20 years – 30%, over 25 years – 40%, over 30 years – 45%, over 35 years – 50% of the basic salary.

Part 4 of Art. 81 sets the salary rates for regional prosecutors and the prosecutors of the Office of the Prosecutor General (hereinafter, UPG) with the coefficient: 1) the prosecutor of the regional prosecutor's office – 1.2; 2) the Prosecutor of the Office of the Prosecutor General – 1.3; 5.

Part of Art. 81 sets the rates of basic salaries of prosecutors holding administrative positions – 1) from 1.7 for the Prosecutor General from of basic salaries of the UPG prosecutor to 1.10

³⁶ Ile zarabia przeciętny Polak? 31 mar.
<<https://businessinsider.com.pl/poradnik-finansowy/najnizsza-krajowa-ile-wynosi/9qqnwse?fbclid=IwAR01hz8pbBgStqxn3STs98LyuF5redHqHECfR7hYeIF3Pz9mzTHv-kU2RR8>> accessed 7 June 2021.

³⁷ J Rudnicka, 'Durchschnittsgehalt in Deutschland' (4 December 2020) <<https://de.statista.com/themen/293/durchschnittseinkommen/>> accessed 7 June 2021.

³⁸ 'Staatsanwalt als Beruf – Infos zur Arbeit in der Justiz' <<https://www.karista.de/berufe/staatsanwalt/>> accessed 7 June 2021.

³⁹ 'Staatsanwalt als Beruf – Infos zur Arbeit in der Justiz' (n 38).

for the deputy head of the unit in the UPG (paras. 1-5 of Part 5 of Art. 81); 2) from 1.5 for the head of the regional prosecutor's office from the basic salaries of the prosecutor of the regional prosecutor's office to 1.10 for the deputy head of the subdivision of the regional prosecutor's office (paras. 6-10 part 5 of Art. 81); 3) from 1.5 for the head of the district prosecutor's office from the basic salaries of the prosecutor in the district prosecutor's office to 1.10 for the deputy head of the district prosecutor's office.

Thus, the basic salaries of the heads of regional prosecutor's offices can reach UAH 72,750 (40,420x1.2x1.5), and the UPG – 89,330 (20,420x1.3x1.7) without taking into account surcharges for years of service, and taking into account, for example, 20 years of experience – UAH 87,300 for the management staff of regional prosecutor's offices up to UAH 107,000 for the heads of the UPG.

In accordance with paras. 2 part 2 of Art. 81 of the Law 'On the Prosecutor's Office', bonuses for prosecutors are carried out in the manner approved by the Prosecutor General, *based on the results of assessing the quality of their work for a calendar year* within the bonus fund formed of at least 10 per cent of salaries and savings (version of the Law of 19 September 2019).

From the point of view of the history of the issue, it is interesting to note that the Draft Law that became the Law 'On the Prosecutor's Office' did not provide for such types of surcharges as bonuses. The Venice Commission approved it because 'the above-mentioned bonuses were considered potentially problematic, in particular, due to the risk of corruption and loss of independence that they cause. Therefore, their absence in the Law is appropriate'.⁴⁰

Over time, it has been noted that the Venice Commission was unequivocally right about the corruption dangers of bonuses as a tool to stimulate the effectiveness of prosecutors. Thus, bonuses for Ukrainian prosecutors were restored by the version of Law No. 578-VIII of 2 July 2015. This version of Law set the minimum amount of bonuses – no less than 10 per cent of basic salary – but did not set their maximum size.⁴¹ In practice, this was reflected in such consequences as regular high bonuses (sometimes higher than the basic salaries), which the heads of the prosecutor's office provide for themselves or to certain prosecutors (according to the media, to their 'favourites').⁴² In 2017, one of the Deputy Attorneys General explained: 'The system of bonuses in government is very bureaucratic – everyone is rewarded at the same percentage (as a percentage of the rate). If there are no problems- you are rewarded regardless of the results'.

The version of the Law of No. 113-IX of 19 September 2019 did not eliminate the bonus system but set their a) maximum limit – the amount of the prosecutor's annual bonus may not exceed 30 per cent of the amount of his basic salary for the calendar year and b) award criterion – based on the results of assessing the quality of their work for a calendar year.⁴³ However, the subjective discretion of the heads of prosecutor's office regarding the awarding of prosecutors is fully maintained. In particular, according to the Prosecutor General's Order No. 503 of 30 October 2020, the evaluation is to approve the prosecutor's report (on

40 Comments of the Directorate General for Human Rights and the Rule of Law (Directorate for Human Rights) of the Council of Europe on the Law of Ukraine 'On the Prosecutor's Office' of 14 October 2014 145 §34-35 <<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?docu mentId=09000016802e75b6>> accessed 7 June 2021.

41 Law of Ukraine 'On Amendments to the Law of Ukraine "On the Prosecutor's Office" on the improvement and features of the application of certain provisions' of 2 July 2015 No 578-VIII <<https://zakon.rada.gov.ua/laws/show/578-19#n180>> accessed 7 June 2021.

42 Vladimir Pirig, 'Employees of the Prosecutor General's Office gave themselves the most bonuses for work in 2016' (29 May 2017) <https://zaxid.net/naybilshe_premiy_za_robotu_v_2016_rotsi_vipisali_sobi_pratsivniki_genprokuraturi_n1427123> accessed 7 June 2021.

43 Law of Ukraine 'On Amendments to the Law of Ukraine "On the Prosecutor's Office" on the improvement and features of the application of certain provisions' (n 40).

the effectiveness of duties, number, and types of assignments, their results, etc.) by his/her immediate supervisor and senior supervisor.⁴⁴

Thus, in practice, bonuses can be both an effective tool to stimulate the efficiency of prosecutors with a fair approach of the heads of the prosecutor's office (as a bonus for productivity or for outstanding, special achievements), and nominal, another type of surcharge to increase prosecutors' earnings on equal terms (when everyone is rewarded equally). In addition, the bonuses can play the role of a tool for managing the team, showing likes or dislikes, influencing subordinates, encouraging their loyalty to management, and so on. Therefore, the bonus tool is not perfect in terms of ensuring the internal independence of prosecutors. For example, there are no bonuses in the remuneration system of Polish prosecutors (Art. 123-127 *Ustawy z dnia 28 stycznia 2016 r. Prawo o prokuraturze*).⁴⁵ But there are bonuses for German prosecutors (Art. 42a BBesG – Federal Law on Salaries).⁴⁶ Given the importance of the independence of prosecutors in the performance of their functions in the legal system, it is important to cancel the bonus system.

In sum, we would like to say that the existing system of supplements to the basic salary – for years of service, for performing functions in administrative positions, and, depending on the level of prosecutor's office, combined with bonuses (if their distribution is fair)) – aims to systematically take into account a) experience (duration of service), b) qualifications (organisational responsibilities and level of the prosecutor's office), and c) the specific impact and success of the prosecutor. Altogether, the amount should proportionally balance the final salary. On the other hand, the surcharge for a class rank would duplicate the surcharge for years of service and does not have any independent orientation in the system of incentives for prosecutors.

4.6 The psychological aspect

As you can see, in determining the remuneration of prosecutors, the legislator takes all factors into account – experience, qualifications, career, position, duties, and even their results. Therefore, the main motive for prosecutors to return to class ranks is not material incentives (monetary incentives in the form of a salary supplement for a class rank). Obviously, the main motive for prosecutors to restore the system of class ranks is psychological. Let me remind you that the Main Scientific Expert Department of the Verkhovna Rada, in its opinion on Draft Law No. 3062, expressed the hypothesis of an 'exclusively psychological justification' of the prosecutor's dress.

Considering the psychological aspect of the legislative return of class ranks and prosecutor's dress, we can distinguish three components:

Internal psychological – associated with emotional satisfaction from the self-awareness of their own class rank, a sense of self-realisation because of the long professional experience and approval of their work by the chief;

External psychological – class rank can be used as proof of professional success; it is a status symbol. As a result, employees who have such a class rank expect respect, attention, honours,

44 Order of the Prosecutor General of Ukraine No 503 of 30 October 2020 'On approval of the Interim Regulation on the system of evaluation of the quality of work of prosecutors and rewarding of prosecutors' <<https://zakon.rada.gov.ua/laws/show/v0503905-20#Text>> accessed 7 June 2021.

45 *Prawo o prokuraturze*. *Ustawa z dnia 28 stycznia 2016 r. Aktualna 19.01.2021 r.* <<http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000177/U/D20160177Lj.pdf>> accessed 7 June 2021.

46 *Bundesbesoldungsgesetz (BBesG)* Ausfertigungsdatum: 23.05.1975. Änderung durch Art. 9 G v. 30.3.2021 I 607 (Nr. 14) <<https://www.gesetze-im-internet.de/bbesg/BJNR011740975.html#BJNR011740975BJNG000611311>> accessed 7 June 2021.

and recognition. If no one knows or only a limited number of people know about the class rank of the prosecutor, the external psychological motive does not work. In order to be effective, the class rank must have the effect of 'public value'; that is, it should be emphasised. For this reason, it was demonstrated on the uniform (on the shoulder straps), indicated in the documents of the prosecutor, and so on. This ostentatious and demonstrative status aspect has an influence on employee motivation and career choices in societies in which modesty is not cultivated as a principle of coexistence and communication.

Historical-psychological – there is a historical memory (experience) of Ukrainian prosecutors about the 'honour of the uniform', the desire to continue its culture, and nostalgia for youth. After all, all professional Ukrainian prosecutors (with no less than 6.5 years experience – from 2014 to 2021) worked in the system with class ranks and the military prosecutor's dress. As the Venice Commission has repeatedly noted

The only historically known model of the prosecutor's office in Ukraine is the Soviet (and before that, the tsarist) model. This model is a reflection of an undemocratic past and does not meet European standards and the values, declared by the Council of Europe. That is why, Ukraine, gaining membership in the Council of Europe, Ukraine had to undertake the obligation to reform the prosecutor's office in line with Council of Europe standards.⁴⁷

4.7 The comparative (encouraging) aspect

It is remarkable to compare whether there are other, perhaps better, systems of accounting for experience, qualifications, and professional paths in determining the prosecutor's salary.

For example, the Law on the Prosecutor's Office in Poland (Art. 124) stipulates that the remuneration of a prosecutor is determined by, of which there are nine. The instance, position, and professional experience influence the choice of rate. There are rates 1-5 in the district prosecutor's office (*prokuratura rejonowa*), 4-8 in the district prosecutor's office (*prokuratura okręgowa*), 7-9 in the regional prosecutor's office (*prokuratura regionalna*), and the rate of the Prosecutor General. A prosecutor gets the next rate every five years. This term may be extended by three years if a disciplinary sanction has been applied to the prosecutor. If the prosecutor goes to the highest instance of the prosecutor's office, he/she receives a salary at the lowest (base) rate for that instance (for example, rate 4 for the district prosecutor's office – *prokuratura okręgowa*). If he/she has already received a salary at the lowest position at rate 4 or 5, he/she will receive a salary at rate 5 or 6, respectively (paras. 2-3 §3 Art. 124). That is, the rate cannot be raised early or 'jumped' due to promotion in the same instance of the prosecutor's office. In the case of the professional promotion of the prosecutor to a higher instance of the prosecutor's office, he/she can immediately claim the minimum rate for this prosecutor's office. However, if the prosecutor has substantial professional experience (20-25 years) and the highest rates of the instance in which he/she worked, the position in a higher instance will be an opportunity for the prosecutor to gradually increase his/her salary. If the prosecutor moves to another (less significant) position, he/she continues to receive the previous rate reached (§4 Art. 124). This approach guarantees stability, predictability, and confidence of prosecutors in the future regarding their salaries, even in the case of demotion. Therefore, there are real guarantees of holding a position in the prosecutor's office. The rate is supplemented by a) a surcharge for years of service, starting from the 6th year of service with 5% and then annually increasing by

47 Conclusion on the Draft Law of Ukraine 'On the Prosecutor's Office' (CDL-AD (2009) 048), para 16 <https://minjust.gov.ua/m/str_23374> accessed 7 June 2021; Conclusion on the Draft Law of Ukraine on the Prosecutor's Office, adopted by the Venice Commission at its 96th Plenary Session (Venice, 11-12 October 2013), para 27 <<https://rm.coe.int/1680097f7d>> accessed 7 June 2021.

1% to a 20% maximum; b) a functional supplement (for duties); c) in accordance with Art. 126, social insurance contributions are not deducted from the salaries of prosecutors. Such a system seems more flexible because it takes into account more factors and does not depend on a subjective factor, unlike bonuses.

The approach to the remuneration of German prosecutors is similar to the Polish one. The only difference is that prosecutors and judges in Poland are not considered civil servants, are not equated with them, and their status, remuneration, material, and other support is determined by the relevant laws on the prosecutor's office and the judiciary. Instead, German prosecutors and judges are considered civil servants in the context of receiving salaries from the federal or relevant land budgets, but any departmental instructions and subordination specific to the civil service do not apply to them. Sometimes, there is information in the sources that prosecutors in Germany have 'R levels' and, apparently, some researchers draw hasty conclusions that German prosecutors have ranks similar to the class ranks of Ukrainian prosecutors. Such considerations are only false assumptions. 'R levels' means that the salary of prosecutors is the salary with rank R in accordance with §§37 and 38 of the Federal Law on Salaries (BBesG). The BBesG determines the salaries of all civil servants, soldiers, professors at public universities, judges, prosecutors, police officers, etc. BBesG sets four salary ranks – A, B, W, and R; each rank sets levels (categories). Appropriate rank indicates the scope and nature of the activity, the amount of responsibility and risk, etc., for example, in rank W, employees receive the salary of professors and university administrations, and in rank R, employees receive the salary of prosecutors and judges (§ 37, 38 BBesG).

Rank R has nine classes – from R2 (R1 not applicable) to R10 depending on the position and type of court (prosecutor's office). According to Part 3 of § 27 BBesG, the basic level of R2 increases after two years of experience. At levels R2 to R4, you need to work for three years, and at levels R5-7, for four years. Periods during which the employee is not entitled to remuneration are not included in the period of stay at the level. Annex No. 3 to the BBesG sets out the range of prosecutors' and judges' posts for each level from R2 to R9, and Annex No. 4 sets out the network of federal prosecutors' rates for each level from R2 to R9 (€5,400 to €14,800).⁴⁸ Similarly, the laws set the basic salaries of 'ranks R'.⁴⁹

As we can see, the 'rates' of Polish prosecutors and the 'ranks R' of German prosecutors are not analogous to the class ranks of Ukrainian prosecutors. They are not related to the awarding of special ranks to prosecutors in a solemn atmosphere as 'lawyer of the 1st-3rd class – justice counsellor of the 1st-3rd class – state justice counsellor', which are equated to military ranks. The rates in Poland and Germany concern only the system of remuneration of prosecutors and determine the basic salary of prosecutors depending on the length of service and promotion. 'Rates' or 'ranks R' are not mentioned in the procedural documents of prosecutors, are not demonstrated, and are not emphasised in any procedural and public legal relations that the prosecutor enters into, do not express the expected honours to the prosecutor, and are not aimed at 'ensuring discipline and respect for the prosecutor from the participants in the judicial process'.

4.8 The globalisation (comparative law) aspect

Now, we will analyse the prosecutor's dress in Europe. One of the arguments for amendments to legislation is the international experience, especially the practice of European states.

⁴⁸ Bundesbesoldungsgesetz (BBesG) Ausfertigungsdatum: 23.05.1975. Änderung durch Art. 9 G v. 30.3.2021 I 607 (Nr. 14) <<https://www.gesetze-im-internet.de/bbesg/BJNR011740975.html#BJNR011740975BJNG000611311>> accessed 7 June 2021.

⁴⁹ 'Staatsanwalt als Beruf – Infos zur Arbeit in der Justiz' (n 38).

Unfortunately, the authors of the Draft Law who appeal to the European experience do not specify what this experience of European countries is. Thus, discussion on this issue is often based on one's own ideas or conjectures.

Thus, in European countries, there is no single model of organisation for the prosecutor's office, but despite the diversity of these models, the legal status of prosecutors is tied to the sphere of justice. In most European countries, the relevant laws provide for largely common (cross-cutting) approaches to regulating the status of judges and prosecutors:

- uniform qualification requirements for positions;
- mutual enrolment of passed qualification exams for a judge, prosecutor, or lawyer;
- similar grounds for disciplinary liability and types of disciplinary sanctions;
- encouraging the transition from profession to profession (for example, in Austria, only a judge or a retired judge can become a federal prosecutor);
- uniform tariffs and incentives for wages, uniforms, etc.

The qualification classes, ranks, etc. of judges and prosecutors are not mentioned by the relevant laws (like the Law of Ukraine 'On the Prosecutor's Office' of 2014), probably because it does not exist (except for military prosecutors, who, for example, in Switzerland (die Staatsanwälte Auditoren) and in Poland, may have military ranks).⁵⁰

At the same time, taking into account the place of the prosecutor's office in the system of power, its organisation, and its main functions, the following models can be distinguished in Europe:

- The prosecutor's office is a part of the Ministry of Justice (France, Belgium, Germany, Poland, Denmark, the Netherlands, Romania, and Estonia) – the prosecutor's office is assigned to the executive branch and is subordinate to the Ministry of Justice. Prosecution officials are very close to the judiciary – they receive the same training, have the possibility to move from being prosecutors to judges during their careers (or vice versa). In Germany, prosecutors' offices operate in general courts at all levels. The Attorney General exercises his

50 When analysing military prosecutors, one should first of all understand that specialised military prosecutors' offices are uncommon in European countries because of the political contradictions. As a rule, it is an element of the military justice system (military courts). For example, the system of military justice also exists in Switzerland, the abolition of which was proposed in the referendum in 1921 but was not supported. 'Volksabstimmung vom 30.01.1921' <<https://www.bk.admin.ch/ch/d/pore/va/19210130/index.html>> accessed 7 June 2021. Swiss military prosecutors are still called auditors (the name dates back to Austro-Hungarian times) and have military ranks. For example, the chief auditor of the army (der Oberauditor) has the rank of foreman (den Grad eines Brigadiers). } Art.17 Militärstrafprozess (MStP) vom 23. März 1979 (Stand am 1. Februar 2020)' <https://www.fedex.admin.ch/eli/cc/1979/1059_1059_1059/de#art_17> accessed 7 June 2021. Also, §2-4 of Art. 3 of the Law on the Prosecutor's Office of Poland provides for the specialisation of military prosecutors, and Art. 125 establishes that 'regulations applying to professional servicemen shall apply to military prosecutors, who are professional servicemen, on issues not regulated by this Law'. Prawo o prokuraturze. Ustawa z dnia 28 stycznia 2016 r. Aktualna 19.01.2021 r. <<http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000177/U/D20160177Lj.pdf>> accessed 7 June 2021. Therefore, Polish military prosecutors serving in the army may have military ranks and military uniforms on par with other servicemen.

The Laws on the Prosecutor's Office of Austria (§ 5 Staatsanwaltschaftsgesetz, Fassung vom 07.07.2021) <<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10000842>> accessed 7 June 2021, and Germany (§ 143 Gerichtsverfassungsgesetz) <<https://dejure.org/gesetze/GVG/148.html>> accessed 7 June 2021 do not establish the internal specialisation of prosecutors' offices, but only stipulate that, if necessary, structural subdivisions can be made in each prosecutor's office in the most priority areas (types of offences). Therefore, the cases of servicemen are carried out by ordinary civil prosecutor's offices.

powers under the general direction of the Minister of Justice. In Poland, the Attorney General is the Minister of Justice.

- The prosecutor's office is part of the judiciary and operates in the courts (Bulgaria, Spain, Italy, Latvia) – for example, the Latvian prosecutor's office is a body of the judiciary that independently monitors compliance with the law.
- The prosecutor's office or its literal analogue does not exist in all countries (see, for example, Great Britain). In the system of public authorities, the Royal Prosecutors Service functions as an independent and autonomous authority, coordinated by the General Attorney.
- The prosecutor's office has a separate system and is accountable to parliament or the head of state (Lithuania).⁵¹

So, do prosecutors in European countries have prosecutor's dress?

Prosecutors do not have prosecutor's dress in Sweden (prosecutors and judges do not have prosecutor's dress in this country of minimalism; they wear business suits), Poland, Hungary, Latvia, Estonia, Georgia, or Moldova.

Prosecutors have such formal dress as the mantle in Germany, Austria, Italy, Spain, France, the Czech Republic, Slovakia, Norway, the Netherlands, Belgium, Great Britain,⁵² Lithuania,⁵³ Turkey,⁵⁴ and the French-speaking cantons of Switzerland.⁵⁵ Prosecutors wear the mantle in court during proceedings. They perform their other official functions in business suits (usually plain dark suits).

In these states, the obligation to wear the mantle extends to both prosecutors and lawyers, with the peculiarity that there is no obligation to wear it in civil, administrative cases in the first and appellate instances. The mantle is used only in cassation courts (supreme, federal, land) and in criminal proceedings (in all instances).⁵⁶

51 L V Omelchuk, A R Klitynska, 'European experience in the organization of prosecutor's offices' (2016) 1 International Legal Bulletin: A collection of scientific papers of the National University of the State Tax Service of Ukraine 199-204 <http://nbuv.gov.ua/UJRN/muvnudp_2016_1_34> accessed 7 June 2021; S V Banah, 'International experience in the organization of the prosecutor's office' (2020) 29 Bulletin of V N Karazin Kharkiv National University, 'Pravo' series 276-280.

52 *The Prosecutors* (27 March 2018) <<https://www.open.edu/openlearn/whats-on/tv/series-one-the-prosecutors>> accessed 7 June 2021; 'Ireland's top prosecutors earned €14.8million in 2016, with one enjoying STAGGERING €449,623 pay' (14 March 2017) <<https://www.irishmirror.ie/news/irish-news/irelands-top-prosecutors-earned-148million-10021731>> accessed 7 June 2021; 'Help of Trinidad prosecutor Keith Scotland is necessary, DPP Baptiste says' (12 December 2016) <<http://sundominica.com/articles/help-of-trinidad-prosecutor-keith-scotland-is-nece-4010/>> accessed 7 June 2021.

53 'Lietuvos Respublikai prisiekė trys nauji prokurorai' (1 April 2018) <<https://www.prokuraturos.lt/lt/naujienos/prokuraturos-aktualijos/lietuvos-respublikai-prisieke-trys-nauji-prokurorai/5606>> accessed 7 June 2021.

54 Savcı., 1 Aralık 2020 tarihinde eklendi <<https://hakkinda-bilgi.nedir.kim/savci/>> accessed 7 June 2021; Hakim ve savcıların cübbeleri değişiyor. 13.09.2014 – Güncelleme: 13.09.2014 <<https://www.haberturk.com/gundem/haber/989749-hakim-ve-savcilarin-cubbeleri-degisiyor>> accessed 7 June 2021.

55 A Renens, 'Les activistes climatiques sont condamnés en appel' (24 September 2020) <<https://www.letemps.ch/suisse/renens-activistes-climatiques-condamnes-appel>> accessed 7 June 2021.

56 O Kaluzhna, 'The prosecutor is met on clothes' (15 May 2021) <<https://zbruc.eu/node/105183>> accessed 7 June 2021.

- In **Italy**, judges, prosecutors, and lawyers wear black mantles in higher courts and in all courts resolving criminal cases.⁵⁷ In addition, judges and prosecutors wear red mantles lined with ermines at ceremonies, such as the opening of the judicial year.

In **Germany**, the official costume of lawyers is 'eine Robe', 'deutsche Juristenrobe' – robe, mantle (the robes of lawyers and judges). At court hearings, prosecutors wear a mantle that matches the judge's clothing – black wool with a velvet border 12cm wide,⁵⁸ red for federal prosecutors.⁵⁹ The mantle of the lawyer and the trainee has a velvet strip 8cm wide.

In **Austria**, they wear a black mantle with a black velvet collar with red elements and cuffs,⁶⁰ in **France**⁶¹ and **Belgium**⁶² – red silk with black lapels and cuffs and a white collar; in the Netherlands,⁶³ judges, lawyers, and prosecutors wear black mantles, with the difference that judges' robes have silk ties on their sleeves and clasps; in **Norway**⁶⁴ – the black mantle.

In the **Czech Republic**, lawyers have black mantles with coloured decorations. The colour of the border depends on the profession – purple (judges of general courts), red (prosecutors), blue (lawyers), or just black (secretaries, court administrators).⁶⁵ Similar mantles are worn in **Slovakia**.⁶⁶

- 57 Antonio Chiappani, procuratore capo di Bergamo, 'Italia impreparata al Covid, si è improvvisato' (9 December 2020) <https://www.huffingtonpost.it/entry/antonio-chiappani-procuratore-capo-di-bergamo-italia-impreparata-al-covid-si-e-improvvisato_it_5fd0ddf9c5b652dce584fe06> accessed 7 June 2021; Corte dei Conti, 'Il terremoto è ancora la priorità: aperti nuovi fascicoli' (8 March 2019) <<https://www.anconatoday.it/cronaca/terremoto-corte-conti-2019.html>> accessed 7 June 2021.
- 58 Julia Bröder, 'So arbeiten Staatsanwälte in Deutschland. Neutral und im Dienst der Gesellschaft: fünf Fakten zum Beruf des Staatsanwalts' (20 May 2019) <<https://www.deutschland.de/de/topic/politik/so-arbeiten-staatsanwaelte-in-deutschland>> accessed 7 June 2021.
- 59 'Plädoyer der Bundesanwaltschaft. Halle-Attentäter soll lebenslang in Haft' (18 November 2020) <<https://www.tagesschau.de/inland/halle-bundesanwaltschaft-101.html>> accessed 7 June 2021.
- 60 'Roben für Juristen, Talare für die Österreichische Justiz' <<https://www.gewandmeisterei.de/shop/Talar-Talare-Richtertalar-Richtertalare-Anwaltstalar-Anwaltstalar/>> accessed 7 June 2021; 'Staatsanwälte: "Grasser und seine Freunde haben kassiert"' (13 October 2020) <<https://www.wienerzeitung.at/themen/buwog/2078880-Staatsanwaelte-Grasser-und-seine-Freunde-haben-kassiert.html>> accessed 7 June 2021.
- 61 Fiche Métier, 'Procureur de la République' <<http://etudiant.aujourd'hui.fr/etudiant/metiers/fiche-metier/procureur-de-la-republique.html>> accessed 7 June 2021; Rémy Heitz, 'Un procureur de la République sous pression' (2 April 2019) <https://www.lemonde.fr/societe/article/2019/04/02/remy-heitz-un-procureur-de-la-republique-sous-pression_5444623_3224.html> accessed 7 June 2021.
- 62 'Pierre Vanderheyden est le nouveau procureur général de Liège' (7 May 2021) <https://www.rtf.be/info/regions/detail_pierre-vanderheyden-est-le-nouveau-procureur-general-de-liege?id=10757416> accessed 7 June 2021; 'Elisabeth Dessoy procureur à Marche' (2 November 2010) <<https://www.sudinfo.be/art/d-20130104-Z1AR1U>> accessed 7 June 2021.
- 63 'Aanklager Pistorius in beroep tegen "te lage" straf' (27 October 2014) <<https://www.rtlnieuws.nl/buitenland/artikel/1554886/aanklager-pistorius-beroep-tegen-te-lage-straf>> accessed 7 June 2021; 'Openbaar aanklager wil dat moordverdachte schuldig wordt verklaard' (25 June 2015) <<https://www.focus-wtv.be/nieuws/openbaar-aanklager-wil-dat-moordverdachte-schuldig-wordt-verklaard>> accessed 7 June 2021.
- 64 'Aktor om terrortiltalt 16-åring: – Planla et større angrep i Norge' (18 May 2021) <<https://www.document.no/2021/05/18/aktor-om-terrortiltalt-16-aring-planla-et-storre-angrep-i-norge/>> accessed 7 June 2021.
- 65 'Státní zastupitelství' <<https://verejnazaloba.cz/>> accessed 7 June 2021; 'Shánějte praxi již při studiu, doporučuje státní zástupce' (4 February 2014) <<https://www.jdipracovat.cz/shanejte-praxi-jiz-pri-studiu-doporucuje-statni-zastupce/>> accessed 7 June 2021; 'Čeští advokáti začnou nosit taláry, zřejmě s modrým límcem' (12 February 2009) <https://www.idnes.cz/zpravy/domaci/cesti-advokati-zacnou-nosit-talary-zrejme-s-modrym-limcem.A090212_150011_krimi_js> accessed 7 June 2021.
- 66 Taláre – prokurátorské, advokátske, sudcovské sa objednávajú na mieru a sú jedinečné pre každého zákazníka. Vzhľad prokurátorského talára. <<https://www.niltex.sk/talare-pre-prokuratorov/>> accessed 7 June 2021.

Only three post-Soviet countries have a militarised prosecutor's dress of all 47 member states of the Council of Europe – the **Russian Federation**,⁶⁷ **Armenia**,⁶⁸ and **Azerbaijan**⁶⁹ – as the tradition of the USSR prosecutor's office. The Baltic States, **Georgia**,⁷⁰ and **Moldova**,⁷¹ as former Soviet republics, have abandoned this tradition. Georgia, Moldova, and Ukraine have had associate membership with the EU since 2014.

As we can see, all the post-Soviet republics that have chosen the path of European integration have passed the stage of reforming their prosecutor's offices, particularly regarding the regulation of functions of prosecutors and prosecutor's dress.

None of these states that prosecutors who use a robe or ordinary business suit are uncivilised, underdeveloped, or have no history of civil service. Therefore, the reference of the lobbyists in Draft Law 3062 to the European experience and traditions of prosecutor's dress does not correspond to reality and will create the wrong impression for people unfamiliar with such an experience.

4.9 The cultural (symbolic) aspect

The prosecutor's dress is not only a matter of psychological attachment and its attractiveness to certain categories of people. The prosecutor's dress is about the ideas and values that it symbolises – the type of legal system, the worldview, culture, and narrative.

The militarised form of clothing of a professional participant in the process of justice (judge, prosecutor, lawyer) brings a touch of militarism and gives a military look to the judiciary. Therefore, because of the socio-political system and/or historical past of these states, the military uniform of prosecutors, to an outside observer (foreigner), is associated with an authoritarian (quasi-democratic) type of government and/or the post-Soviet space and traditions. Thus, the uniform of prosecutors characterises and symbolises the type of legal culture. This issue is primarily one of cultural and ideological values rather than encouraging the work of prosecutors.

The prosecutor's dress, of course, is not associated with incentives for quality work and career growth, but they symbolise belonging to the profession and therefore are one of the *psychological factors* that a) attract young people to work in the prosecutor's office; b) allow prosecutors to play a certain role in society. Hence, the prosecutor's dress is an *internal psychological motive* in people's choice of profession when the factor is important in terms of their ambitions and ideas about the prestige of the profession (to which their belonging can be determined by external, recognisable features).

If prosecutors objectively do not need a prosecutor's uniform to perform their functions effectively in modern conditions, the attentive reader might ask, what is the reason for the mantle of prosecutors in other European countries?

The mantle serves different purposes. On the one hand, like the military-like prosecutor's dress (uniform), the mantle is an external symbol, a visual distinguishing feature of belonging to the profession. However, unlike the military uniform, the mantle is a 'symbol of judicial dignity', the traditional attire of legal practitioners involved in the administration

67 В России сменился генпрокурор. 22 января 2020. <<https://lenta.ru/news/2020/01/22/general/>> accessed 7 June 2021.

68 'Prosecutor General of the Republic of Armenia, Candidate of Legal Sciences, Second Rank State Counsellor of Justice' <<https://www.prosecutor.am/en/Biography/>> accessed 7 June 2021.

69 Prosecutor General's Office of the Republic of Azerbaijan, 'Leadership' <<https://genprosecutor.gov.az/en/page/prokurorluq/azerbaycan-prokurorlugu/rehberlik>> accessed 7 June 2021.

70 Prosecutors General of the Republic of Georgia <<https://pog.gov.ge/en/employee/prosecutor-list>> accessed 7 June 2021.

71 Directorate of the General Prosecutor's Office of the Republic of Moldova <<http://procuratura.md/en/infoproc/>> accessed 7 June 2021.

of justice, who share the same knowledge, principles, ethical standards, maturity, and independence of opinions. The mantle allows professional participants of the process – judge, prosecutor, lawyer – to be distinguished from the other participants (witnesses, victims, suspects, etc.) so that their position as independent people responsible for the administration of justice is more easily recognisable. The mantle clarifies the situation in the courtroom and contributes to the creation of an atmosphere of balance, impartiality, and objectivity in court.

On the other hand, the lawyer wears a mantle over his/her clothes, covering his/her personal appearance. People dressed in the mantle do not act as private persons but exclusively as functionaries of the legal system in the positions determined by the legislator. Due to the homogeneity of the mantle of all justice officials (judges, prosecutors, lawyers), it also states that people who wear the mantle are on an equal footing due to the powers granted to each of them by law, regardless of whether someone can afford an expensive suit or ordinary, casual, street clothes.

Thus, the prosecutor's dress – military uniform, mantle, or business suit – has the opposite meaning. The Soviet-style prosecutor's uniform, together with the shoulder straps that indicate class rank, aims to attract attention, to emphasise and elevate the status of the prosecutor in the process, and instil timidity and obedience (i.e., discipline) in other participants in communication with him. The initiators of Draft Law 3062 openly note this.

In contrast, the idea of the mantle is to hide the social position of the prosecutor and the lawyer, regardless of achievements, merits, respectable clothes, or property status, so that no external, visible factors distract from *the arguments of the prosecutor and the lawyer*. The mantle is used in the court process so that the external form does not prevail over the internal content of the person's professional activity and does not become a tactical and psychological element of overemphasising the attention of the court, other participants, and all those present in the courtroom on the prosecutor or lawyer's competence and skills. This positioning of the prosecutor and the lawyer is in line with the principles of adversarial proceedings and the procedural equality of the parties. In those countries where there is no mantle for prosecutors, the usual business suit is used – suits with a restrained cut and dark colours. Their dress is not intended for self-expression. The idea of a restrained suit is the same as the mantle – to avoid attracting attention with its appearance.

Consequently, the uniform of prosecutors is a material artefact of the inherent culture, an indicator of the worldview of that society. Lobbyists and supporters of the idea of restoring the uniform of prosecutors may be aware of this but do not report unpleasant and inconvenient facts. 'But the thing is that selective truth is a distorted truth',⁷² as was said by M. Marynovych, a well-known public figure, dissident, human rights activist and publicist, and vice-rector of the Ukrainian Catholic University in Lviv.

Therefore, Ukraine declared a course for European integration in the preamble of the Constitution in 2019 – in the conditions of war and its possible aggravation, when the northern neighbour on our borders is brandishing weapons, to continue and spread the culture of the prosecutor's office of this neighbour is an incomprehensible step.

The analysis of the *cultural aspect* would be incomplete without assessing the possibility and prospects of introducing a mantle for Ukrainian prosecutors.

a) The mantle is a tradition that has been formed historically. It is a customary national law (enshrined in the statutes of professional communities and codes of professional ethics), and its origins date back to the 18th century in those European countries where prosecutors and

72 Myroslav Marynovych, 'Avoid the fourth tyranny' (17 July 2020) <<https://m.tyzhden.ua/Columns/50/245696?fbclid=IwAR29jM2aNCrOXjtGicVsbDUivCfWrGe32M63Us2f5Rpnjp3bcdlBPUMb6aw>> accessed 7 June 2021.

lawyers, as well as judges, wear mantles. This does not mean that Ukraine, like other states in which there are no mantle traditions, cannot start such a tradition because all European states 'started from something'. For example, in Slovakia, mantles as uniforms for lawyers were proposed only in 2006, and the Czech Republic began a public debate on the mantles only in 2007 so that lawyers could express their opinion on the mantles.⁷³ As Dr Peter Tümmel, a member of the General Professional and Basic Duties and Advertising Committee of the German Federal Bar Association (BRAK), said

We have long fought for our recognition as a body of justice, including the Federal Constitutional Court.⁷⁴ The mantle is an outward sign of confirmation of this; for those involved, as well as for customers and outsiders, which is important.⁷⁵

Currently, Ukraine has sufficient constitutional preconditions for the introduction of mantles for prosecutors and lawyers by virtue of the constitutional changes of 2 June 2016 in the area of justice (Chapter VIII of the Constitution of Ukraine),⁷⁶ according to which the Prosecutor's Office (Art. 131-1) and the Bar enshrined in the Constitution as elements of the justice system.

b) The law should provide the obligation to wear mantles for both prosecutors and lawyers, not the right to wear them. Any other approach would distort the mantle idea for forensic lawyers and be out of context and detrimental to the principle of equality of arms. For example, on 18 December 2012, Draft Law No. 1115⁷⁷ on a mantle for lawyers was submitted to the Verkhovna Rada. The first draft of the law proposed to supplement Art. 47 of the CPC (duties of a defence counsel). The main idea of the Draft Law was that the defence counsel in criminal proceedings in court would be obliged to wear a lawyer's mantle.

Later, in the revised version of the Draft Law, the voluntary nature of wearing a mantle in all types of litigation was enshrined. Thus, the amendments to Art. 47 of the CPC and proposed amendments to Art. 20 (professional rights of a lawyer) of the Law of Ukraine 'Law on the Bar and Advocates' Activity' have been cancelled. However, on 27 November 2014, the legal community withdrew⁷⁸ the document due to significant resistance towards and a negative assessment of that Draft Law.

On 6 September 2018, the Draft Law 'Law on the Bar and Advocates' Activity' No. 9055,⁷⁹ Art. 18 (symbols of the Bar of Ukraine) was proposed. The Draft Law provided for the voluntary right of a lawyer in court to carry out their professional activities in a mantle and with a badge. The sample of this practice was approved by the Bar Council of Ukraine.

As we can see, the disproportion is that the introduction of mantles for prosecutors has never been proposed. This issue was raised only in the framework of the round table 'Professional

73 'Na taláry si dělají žalusk i advokáti' (8 May 2007) <<https://tn.nova.cz/clanek/zpravy/domaci/na-talary-si-delaji-zalusk-i-advokati.html>> accessed 7 June 2021.

74 In Germany, there is no legal provision to wear a mantle in court – this obligation is enshrined in the professional code of conduct for lawyers.

75 'Bald auch ohne Robe zu Gericht? Von Pia Lorenz' (3 May 2019) <<https://www.lto.de/recht/juristen/b/satzungsversammlung-brak-antrag-abschaffung-robenpflicht/>> accessed 7 June 2021.

76 Law of Ukraine 'Amendments to the Constitution of Ukraine (Regarding Justice)' of 2 June 2016 No 1401-VIII <<https://zakon.rada.gov.ua/laws/show/1401-19#n2>> accessed 7 June 2021; Constitution of Ukraine, Version of 1 January 2020 <<https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#n5259>> accessed 7 June 2021.

77 Draft Law on Amendments to the Law of Ukraine 'Law on the Bar and Advocates' Activity' concerning the lawyer's mantle of 18 December 2012 No 1115 <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?id=&pf3516=1115&skl=8> accessed 7 June 2021.

78 See the stages of passing the Draft Law on Amendments to the 'Law on the Bar and Advocates' Activity' regarding the lawyer's mantle (n 77).

79 Draft Law 'Law on the Bar and Advocates' Activity' of 6 September 2018 No 9055 <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=64557> accessed 7 June 2021.

ethics of the trial' (Kyiv, 24 November 2017). After this event, a resolution was proposed, which contains the idea of the introduction of mantles in court for prosecutors and lawyers.⁸⁰

The introduction of the mantle for prosecutors and lawyers on a voluntary basis will lead to chaos and does not correspond to the idea of the mantle – the principle of equality of arms. The voluntary wearing of the mantle will make lawyers happy to simplify their lives and rarely use the mantle. A defence attorney in civilian clothes will oppose a prosecutor in a mantle or vice versa, which completely distorts the idea of a mantle for court lawyers.

In addition, in the case of the introduction of the mantle, it is necessary to address organisational and technical issues. First, changing rooms for lawyers need to be arranged in the courts, as it is difficult to come to court in a mantle (weather conditions, tidiness, etc.). In addition, lawyers and prosecutors practice in different courts in the region or in different regions (several dozen courts), and it is financially impossible for them to keep a mantle set in each court. Conversely, it is not possible for courts to keep such a large number of mantles on the premises. Therefore, lawyers need to be aware that they will have to carry the mantle to each court hearing.

Secondly, a significant period should be arranged in the introduction of mantles for the entry into force of such a law (six months to a year), so that court lawyers have enough time to purchase mantles and a market for their manufacture will appear. Otherwise, the person (client) will be deprived of the right to the legal assistance of the chosen defence counsel due to his/her inadmissibility to the court hearing due to improper appearance.

Thirdly, the mantle is an additional expense for the prosecutor and the lawyer. For example, the approximate cost for a lawyer's mantle of lawyers in the Czech Republic is CZK 2,800,⁸¹ in Germany, from €180 to €340 (price may vary depending on the size, manufacturer, quality of accessories, and fabric).⁸²

The idea of mantles for prosecutors and lawyers must go through a stage of psychological perception and acceptance of this idea within the legal community, which currently rejects this idea as being imposed on it from the outside, likely due to ignorance on this issue. In the Czech Republic, at the time of the public debate on the introduction of the mantle for lawyers, according to initial estimates, about two-thirds of the legal community was in favour of the mantle,⁸³ and the mantle became obligatory in 2010.⁸⁴

Beyond these organisational and psychological difficulties and barriers, the idea of the mantle is meaningful and correct because the mantle proves that prosecutors and lawyers act on an equal footing with judges. The mantle ennobles court lawyers and adds dignity and courtesy to the trial. The mantle does not allow for emotions, kinship, familiarity, etc. Undoubtedly, the mantle would promote and raise the prestige of the judicial legal professions.

80 'Judicial ethics: The vision of judges, prosecutors and lawyers' (26 November 2017) <<https://ukrainepravo.com/news/ukraine/yekhyyna-ftsesvsgs-tusshchyefts-bayerrya-ftseekv-tusntsusukv-k-aevsnakhkv/>> accessed 7 June 2021.

81 'Talár pro státní zástupce černá – červená, žena' <<https://www.papper.cz/cs/talary-pro-soudce-a-absolventy/16005-talar-pro-statni-zastupce-soudkyne.html>> accessed 7 June 2021.

82 'Natürlich von Soldan: Roben-Klassiker für Anwälte, Richter, Staatsanwälte' <<https://www.soldan.de/fachbedarf/roben>> accessed 7 June 2021.

83 'Na taláry si dělají zálusk i advokáti' (8 May 2007) <<https://tn.nova.cz/clanek/zpravy/domaci/na-talary-si-delaji-zalusk-i-advokati.html>> accessed 7 June 2021.

84 'Taláry pro advokáty jsou blíže. Kývl na ně senát. Advokáti by se do taláru mohli obléct příští rok. Jak bude oděv vypadat, se zatím neví.' (17 June 2009) <<https://zpravy.aktualne.cz/domaci/talary-pro-advokaty-jsou-blize-kyvl-na-ne-senat/r~i:article:640254/>> accessed 7 June 2021.

4.10 The professional (deontological) aspect

The prosecutor must properly understand the essence of his profession and its social role in society. In addition, prosecutors should reasonably and in the spirit of respect for human rights use the powers granted to them in accordance with the principles of the rule of law, legality, and justice, improve their skills, deepen their legal knowledge, improve the general and legal culture, and master foreign experience in their activity.

From the deontological perspective, Ukrainian prosecutors have certain problems. According to V. Neklyudov (chairman of the subcommittee on the activities of the prosecutor's office of the Verkhovna Rada Committee on Law Enforcement)

Polls of prosecutors show that 41% of respondents believe that *the class rank is a marker of a prosecutor's career*, although less significant, than holding an administrative or higher position. Moreover, a career for prosecutors is a significant motivating factor, but *the strongest influence on the motivation of professional activity is exerted by a career, not a professional career*. At the same time, for 29% of respondents, the class rank is an indicator of the professionalism of the prosecutor...⁸⁵

Unfortunately, Neklyudov does not provide information about which sociological service or interdepartmental research conducted this survey or what is its representativeness was (total number, sampling principle), so there are many unknown sociological factors in the survey.

Analysing the arguments, *firstly*, the system of motives for working in the prosecutor's office is multifaceted, but the fact that 'a career for prosecutors is a significant motivating factor, and *the strongest influence on motivation has a job* (administrative or higher position), *not a professional career*' should alert us. This means that in the pyramid of motivation of prosecutors, career growth is the highest motivation: people want to hold administrative (managerial) and/or senior positions and increase their class rank. What does this indicate? On the one hand, the focus on career growth is a positive motive, but, on the other, service careerism is traditionally inherent in military, hierarchical types of service ('Those soldiers who are not willing to be a general are not good soldiers'). For professions characterised by such features as intrinsic independence of professional activity and an analytical and creative nature, the central motives, it seems, are intellectual and emotional satisfaction from work and its results, self-awareness in the profession, gaining a professional image, and respect among colleagues, clients, and society as a whole. In other words, the priorities of prosecutors' motivation demonstrate their worldviews and self-awareness of the profession as a vertical hierarchical service or as a professional activity characterised by independence, with elements of administrative subordination to higher-level prosecutors (Art. 17 of the Law 'On Prosecutor's Office'⁸⁶ 2014). After analysing the survey data, it is unclear what place the prosecutor's activity itself as a professional affair occupies in the hierarchy of prosecutors' motivation. However, this motivation should play a key role for prosecutors. After all, trust and respect for the prosecutor's office in society directly depend on successful criminal proceedings, fair sentences, and the impossibility of avoiding criminal liability. Society is indifferent to the positions, regalia, honours, awards, ranks, experience, etc., of the prosecutor who managed to ensure this social effect. It is the effectiveness of prosecutors more than anything else that is important to society.

Secondly, it should be understood that '41% of respondents consider a class rank a career marker', as the vast majority of the Ukrainian prosecutor's office was formed before 2014, i.e., in the spirit of the values of the prosecutorial community according to the Law 'On

85 Vladlen Neklyudov, 'Class ranks are not for generals, but for ordinary prosecutors' <<https://censor.net/ru/b3253460>> accessed 7 June 2021.

86 Law of Ukraine 'On the Prosecutor's Office' of 14 October 2014 No 1697-VII <<https://zakon.rada.gov.ua/laws/show/1697-18#Text>> accessed 7 June 2021.

the Prosecutor's Office' from 1991 and the Constitution of 1996 – the cultural successor of the prosecutor's office of the USSR (Soviet model of the prosecutor's office). Therefore, *on the one hand*, we should not be surprised by the commitment of some Ukrainian prosecutors to the military uniform and class ranks – this is a natural manifestation of their psychological attachment to historical traditions and customs in the corporate community. However, *on the other hand*, the prosecutor must understand the essence of his/her profession and what determines its standards of ethics, pay, positioning, and trust in society. They must actively engage in self-education, expand the idea of the prosecutor's office in the legal system in a comparative context, and not remain in the decades-old information vacuum. In accordance with Part 2 of Art. 19 of the Law 'On the Prosecutor's Office', the prosecutor is obliged to improve his/her professional level. The prosecutor is periodically trained at the Ukrainian Training Center of Prosecutors, which should include the study of the rules of prosecutorial ethics.

Therefore, if the said sociological survey proves the real state of the prosecutors' worldview, more attention should be paid to the professional deontology of prosecutors. Round tables, seminars, conferences (national and international), etc., should forward this educational mission. The Training Center of Prosecutors of Ukraine could play an important role in the field of education, acquainting prosecutors of Ukraine with the international standards of the prosecutor's office.

Attention should also be paid to this issue in the educational process in law schools and faculties in the courses on prosecutor's law or criminal justice, as it is presented only in a summary style (class ranks and uniforms of prosecutors exist/do not exist, and when they were cancelled). Thus, generations of future lawyers are formed in the information vacuum – questions remain about the dress code of prosecutors, whether they have classes or ranks and why, whether this is consistent with the functions of the prosecutor in the judiciary and the principles of the process, and so on. As a result, the current and younger generation of lawyers are poorly informed about these issues, and therefore, it is easy to persuade them of one idea or another.

4.11 The sociological aspect

The best expression of respect for prosecutors and an incentive for their dedication to work and the prestige of the profession is a high level of public trust in the prosecutor's office, when prosecutors are popular, respected, and appreciated for their hard, dangerous, risky work.

For example, according to the data and methodology of public opinion polls of EU member states of the Eurobarometer Standard, as of April 2019, the highest level of trust in prosecutors was recorded in Denmark at 44% (1,019 respondents). In comparison, the rate was 20% in Sweden, 13% in Poland, and 14% in Germany (the EU average is 10% of the 27,655 interviewees). This percentage of respondents believes that the prosecutor's office conducts criminal prosecutions correctly, regardless of whether the crime was committed by politicians or other influential people or in their own economic interests, and nothing in the work of prosecutors needs to be improved.⁸⁷ At the same time, for 99% of Swedes and Germans surveyed, 94% of Danes, and 91% of Poles, it is important that the prosecutor's office performs its functions properly, despite the influence of the suspects and regardless of their own economic interests. That is, respondents have high demands and expectations, and this issue is important in their lives.

The results of the Eurobarometer polls are incomparable with the polls of Ukrainian sociological services, as Ukrainians were not asked questions in a specific context but only about trust/distrust in general. In any case, according to the latest polls conducted by the

87 European Commission, 'Eurobarometer, Rule of Law' (July 2019)
<<https://europa.eu/eurobarometer/surveys/detail/2235>> accessed 19 May 2021.

Razumkov Center on March 2021, 2.7% of Ukrainians fully trust the prosecutor's office, and 14.6% somewhat trust it (a total of 17.3%).⁸⁸ It is unknown by what criteria (or general feelings) the Ukrainian respondents were guided.

4.12 The value (ethical-philosophical) aspect

As stated in the explanatory note to Draft Law 3062, 'the return of the mechanism for assigning class ranks and uniforms to prosecutors ...will discipline other participants in the criminal process in the exercise of their powers by the prosecutor and promote respect for his procedural status'. 1) This thesis is, in folk wisdom, that 'a place (uniform) beautifies a person, or a person a place'. 2) Respect for the prosecutor and discipline on the part of other participants in criminal proceedings in the performance of the prosecutor's functions depends on the proper ethical conduct of the prosecutor – his/her courtesy, professionalism, and competence. If these features are not present, no uniform or rank will forcibly provide an emotional response of respect from other participants in the process, the community, and society. 3) If, on the contrary, the prosecutor allows unethical behaviour or shows incompetence – it discredits not only the identity of the prosecutor but also the uniform and the system of ranks. 4) All participants in criminal proceedings have the right to respect for procedural status by the principle of equality (para. 1, part 2 of Art. 129 of the Constitution), and respect for the prosecutor cannot be an exception. 5) Could the provision of additional incentives for respect for the prosecutor be the aim for the state, in which the person and his/her rights are declared the highest value? After all, the institute of the prosecutor's office is a state service for rendering law enforcement, human rights, and justice.

We should briefly note the controversy of the internal party policy of the presidential party 'Sluha Narodu' (SN), which forms a parliamentary mono-majority. On the one hand, the president has repeatedly said that: 'the state is a service that creates conditions for business'⁸⁹ and 'we are debureaucratizing the relationship between the state and the citizen.'⁹⁰ At the same time, MPs from the 'Sluha Narodu' introduced Draft Law 3062 and passed it through the parliamentary Committee on Law Enforcement, where the SN has a majority. Similarly, on 20 May 2021, the Verkhovna Rada voted in the first reading on the Draft Law 'On De-Sovietization of the Legislation of Ukraine' (Reg. No. 4284),⁹¹ and later on the same day, the possibility of considering Draft Law 3062 was discussed in the session hall.⁹²

88 Razumkov Center, 'Assessment of the situation in the country, trust in the institutions of society and politicians, electoral orientations of citizens' (March 2021) <<https://razumkov.org.ua/napriamky/sotsiologichni-doslidzhennia/otsinka-sytuatsii-v-kraini-dovira-do-instytutiv-suspilstva-ta-politykiv-elektoralni-orientatsii-gromadian-berezen-2021r>> accessed 19 May 2021.

89 V Zelensky, 'The state is a service that creates conditions for business' (24 June 2019) <<https://news.dtk.ua/society/politics/56066>> accessed 7 June 2021.

90 V Zelensky, 'Minus Medvedchuk, What is the meaning of the policy of de-oligarchization in Ukraine and who will be next' (14 May 2021) <<https://focus.ua/uk/opinions/482442-kolonka-zelenskogo-medvedchuk-v-chem-smysl-politiki-deoligarhizacii-v-ukraine?fbclid=IwAR2cGoJwROS8jRaxsGVqiiFg40l132DKWQUaU0NDqEu4ecaHPaLe9Kosuic>> accessed 7 June 2021.

91 Draft Law 'On de-Sovietization of the legislation of Ukraine' No 4284 <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=70276> accessed 7 June 2021.

92 Results of consideration of the issues on the agenda of the Verkhovna Rada of Ukraine for 20 May 2021, unofficial result of the consideration formed by the 'Rada' system according to the words of the chairman at the sitting <http://w1.c1.rada.gov.ua/pls/radan_gs09/ns_pd2?day_20&month_05&year=2021&nom_s=5> accessed 7 June 2021.

5 CONCLUSIONS

A comparative analysis of the class ranks and prosecutor's dress in the Council of Europe member states revealed common historical, transnational features characteristic of the former Soviet republics. Of all the 47 member states of the Council of Europe, prosecutors have a militarised uniform in only three states – Russia, Armenia, and Azerbaijan – as a continuation of the tradition of the USSR prosecutor's office. The Baltic States, Georgia, and Moldova have abandoned this tradition. This is primarily due to European integration processes: Lithuania, Latvia, and Estonia have been members of the EU since 2004, and Georgia, Moldova, and Ukraine have had associate membership with the EU since 2014. The reform of prosecutor's offices in these countries has covered the functions and organisation of the prosecutor's office, including the status and the appearance of prosecutors.

When they are in court, prosecutors of European countries wear a mantle like a judge's with distinctive features of decoration or a business suit and do not have class ranks, classes, or special honorary titles, which are advertised in procedural documents of the prosecutor or displayed in the form of special badges, marks, or elements of decoration on the mantles, emphasising the status of the prosecutor in any way.

For comparison, Polish prosecutors have 'rates', and German prosecutors have 'R levels', which depend on the length of service and prove the prosecutor's experience and level of office. They are basic salaries and are taken into account for additional allowances, i.e., they are used only for the remuneration of prosecutors.

Forms of prosecutor's dress – military, mantle, or business suit – are a material artefact of the inherent culture and an indication of worldview, symbolising certain ideas and values and types of legal systems. Military uniform, mantle, or business suit – all these choices have different meanings.

Class ranks and the military uniform of prosecutors do not comply with the constitutional principles of justice, namely, adversarial proceedings and equality of all participants in the process before the law and the court, as well as with the procedural principle of free evaluation of evidence.

I hope that the information provided in this article will provide a fresh perspective on the problem of the expediency of returning to Ukrainian prosecutors' military uniforms and go beyond stereotypes. The article can contribute to lawyers' self-awareness of their attitude towards this issue and understanding of how Ukrainian approaches are perceived in the world, and why, after Ukraine's accession to the Council of Europe in 1995, the Venice Commission demanded the abolition of the military image of the prosecutor's office.

Please, see the full list of references on p. 209-214.