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Grundlagen of Legal Responsibility and Guaranteeing the Efficacy of Measures in Compliance with European Human Rights Standards

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Abstract

The study aims to analyze effective human rights protection by clarifying the concept of legal liability from the point of view of the EU legislation and case law on human rights. Ensuring justice, freedom, and equality before the law is important. Ukraine is committed to EU integration; therefore, adapting Ukrainian legislation to European standards is a key step in this process. The study focuses on determining the need for and ways of adapting the Ukrainian legal framework to European standards. As a result of the study, The European Union (EU) plays a crucial role in Ukraine's foreign and integration policy, emphasizing the need to harmonize legislation with European standards. Legal liability is crucial in modern legal doctrine, ensuring the rule of law, guaranteeing rights, and protecting interests. Ukraine should learn best practices from the EU, such as Germany's "judicial autonomy" principle, to strengthen its independence. The EU also promotes transparency in appointments and careers, fighting corruption through anti-corruption bodies and financial control. Ukraine should also study and implement effective administrative liability systems, such as those used by France and Spain, to improve internal control and respond effectively to violations.

I. Introduction

Legal liability occupies a key place in modern legal doctrine and is traditionally viewed as a legal phenomenon, a legal concept, and an interdisciplinary legal institution (a normative construction). However, today each dimension of legal liability requires a deep philosophical understanding, holistic legal interpretation, and systematic regulatory improvement. This is because legal liability is not a statically frozen legal phenomenon, and therefore changes in social relations determine a new content of goals, principles, functions, and forms of implementation. Without legal responsibility, the law becomes powerless and does not meet social expectations. Many processes and areas of legal development are associated with a sense of security for everyone, a guarantee of rights and legitimate interests, and resistance to arbitrariness in the process of streamlining social relations ([Kovalova et al., 2019](#)).

The permanent importance of the entire spectrum of issues related to the nature of legal liability is due to the universality and uniqueness of this legal phenomenon, and the practical embodiment of the eternal values of law - the ideals of justice, freedom, equality, and humanism. The problem of legal liability has not lost its relevance even though it has been the subject of research by national science for more than fifty years. It is worth noting that the phenomenon of legal liability is studied by scholars of various branches of law, but remains poorly understood both within individual branches of law and at the level of general theoretical concepts of its functioning in law in general ([Korniienko et al., 2020](#)).

The European Union (EU) and Europe as a whole are priority areas of Ukraine's foreign and integration policy. Therefore, bringing legislation in line with European standards is a necessary step on this path. This also applies to legal liability. A distinctive characteristic of legal liability in the EU is that its principles are reflected in the general principles of law, the case law of the European Court of Human Rights, and the European Court of Justice ([Golovin et al., 2022](#)). Today, the European Union is a powerful political, economic, cultural, and legal center. EU law has a great influence on the national law of its member states. It originates from the basic traditions and customs of international law.

This article is focused on considering the legal foundations of legal liability and ensuring the effectiveness of measures in accordance with European human rights standards. Understanding these issues is important not only for the development of the national legal system, but also for the implementation of international standards and human rights in the Ukrainian legislation.

The first part of the article considers the conceptual aspects of legal liability and defines its role in the modern legal field. The second part analyses the impact of European human rights standards on legislation and the practice of applying legal liability.

Many scientific works, including those by such scholars as [Zelena \(2021\)](#), [Dolgikh \(2020\)](#), [Yakymchuk \(2021\)](#), [Marin \(2021\)](#), [Smokov \(2022\)](#), and [Kalenichenko \(2020\)](#) are

devoted to these issues. A number of articles related to the research topic were also analysed, such as «The concept of the institution of legal responsibility in private law» ([Zelena, 2021](#)), «Legal responsibility of business» ([Skrynkovskyi & Tyrkalo, 2022](#)), «Legal responsibility of civil servants in Ukraine and the member states of the European Union» ([Dolgikh, 2020](#)), «Positive legal responsibility: general theoretical characteristics» ([Dashkovska et.all., 2021](#)), «Legal responsibility: the socionormative context of ensuring efficiency» ([Sunegin, 2020](#)), «Legal principles of legal responsibility of territorial communities» ([Yakymchuk, 2021](#)), «Legal responsibility in public and private law.

Theoretical issues of jurisprudence and problems of law enforcement: challenges of the 21st century: theses addendum» ([Kalenichenko, 2020](#)), «Legal regulation of the legal responsibility of civil servants in EU member states» (Korotkykh, 2019), «Libel by algorithm? Automated journalism and the threat of legal liability» (Lewis et.all., 2019), «Potential legal liability for withdrawing or withholding ventilators during COVID-19: assessing the risks and identifying needed reforms» ([Cohen et.all., 2020](#)), «An evaluation of the legal liability of artificial intelligence and robotics under turkish legal regulations» ([Ince et.all., 2019](#)), «The Concept, Features and Forms of Civil Legal Liability» (Kozhevnikov, 2023), «Legal Liability for Notaries Due to the Issuance of Authentic Deeds Resulting in State Losses» ([Wardantik & Prawesthi, 2023](#)), «Legal Liability in case of Discrimination in the Workplace» ([Marin, 2021](#)).

However, there are gaps in legal literature that require a detailed analysis of the effectiveness of human rights protection mechanisms in specific situations, taking into account their context and characteristics.

Therefore, the main purpose of the article is to clarify and specify the theoretical and regulatory framework of legal liability and to consider legal liability from the perspective of European law and practice. Therefore, we hope to contribute to improving the Ukrainian legal system and ensuring human rights protection in Ukraine.

The practical significance of the results obtained is that the study formulates and substantiates scientific provisions that allow expanding the theoretical and legal understanding of legal liability in law, and therefore will contribute to improving the effectiveness of its application in Ukraine. The main results of the study presented in the article may be used in lawmaking - to improve the provisions of constitutional, administrative, criminal, financial, administrative procedure, criminal procedure and some other branches of public law; law enforcement - in the course of consideration of legal cases related to the application of legal liability in law; research - in the course of further perspective developments of the issues of legal liability in law.

II. Materials and Methods

The study is based on a comprehensive approach to the study of legal liability in the context of European human rights standards. The leading research method is comparative qualitative methodology.

The methodological basis of the study is a set of worldviews, philosophical and scientific provisions, principles of scientific knowledge, methodological approaches, general methods of thinking, philosophical, general scientific, and specific scientific (non-legal and legal) methods, which ensures the validity and reliability of the results of the study of legal liability in law. Given the peculiarities of the subject matter, purpose and objectives of the study, the following main methodological approaches were applied, in particular: the institutional approach, when considering legal liability in law as a sustainable form (social institution) of organization and regulation of the public law sphere of society. This approach allows us to consider responsibility as a social institution that is important for the stability of society; the anthropological approach, when understanding the nature of legal liability in law as one of the forms of human legal existence. This approach is aimed at studying responsibility from the point of view of its impact on a person and his rights; the phenomenological approach is used to study the ontological essence of legal responsibility as a phenomenon. This approach is aimed at revealing the essence of responsibility through the analysis of its manifestations in the legal system.

In turn, the dialectical method made it possible to consider legal liability in law in the dynamics of its development and interaction with other social and legal phenomena, as well as from the perspective of European legislation and practice; and to consider the powers of the European Union in determining legal liability. This approach allows taking into account changes in legal responsibility and its interaction with European legislation and practice. The systemic method made it possible to distinguish the institution of legal liability in the law of the European Union as an integral system of its provisions and to study the EU legislation in this area. The formal legal method made it possible to characterize the nature of legal liability in law with the help of legal structures and legal terminology.

These methodological approaches helped consider legal liability in the context of European human rights standards and systematize the study results.

III. Results

Legal liability has a special place in the system of legal guarantees for the realization of constitutional rights and freedoms of man and citizen. Its specificity lies in the fact that legal responsibility ensures protection and safeguarding of human and civil rights and freedoms by guaranteeing that public authorities, local self-government bodies, their officials and officers fulfil their duties that correspond to these rights and freedoms. In other words, first of all, we are talking, and this is, in our opinion, the main factor, about the legal responsibility of the state represented by public authorities, as well as officials and officers. On the other hand, legal responsibility implies the function of ensuring the fulfilment of human and citizen's duties, which are part of the legal status of a person and a citizen.

Legal responsibility is a multidimensional phenomenon of legal reality. In the context of two groups of approaches to clarifying the essence of legal liability, this legal phenomenon should be considered in two aspects: legal liability as an institution of objective law - in the context of the theory of state (public law) coercion; in turn, legal liability as an element of legal relations - in the context of the theory of legal relations. It should be noted that legal liability as an institution of objective law and legal liability as an element of legal relations have several specific features that characterize this legal phenomenon in the respective plane (objective, subjective law) ([Cherniha, 2007](#)).

Legal liability as an institution of objective law is formally enshrined in legal acts and other sources (forms) of law. The rules of law that enshrine the provisions on legal liability are systematized in the system of law according to the main features of the delimitation of branches and institutions of law. In this regard, an ordered set of legal norms regulating a certain type or type (group) of similar social relations using a certain branch method of legal regulation constitutes specific institutions of legal liability of certain sub-branches and branches of the legal system ([Gnatyuk, 2001](#)).

Each branch of law has its own set of ordered and mutually agreed legal norms, which is the institution of legal liability of this branch of law. Thus, within constitutional law, there is constitutional and legal responsibility, within administrative law - administrative and legal responsibility, etc. The concept gives grounds to characterize legal liability as a phenomenon of objective law at the general theoretical level as a legal category which: 1) has an abstract form; 2) is not personified; 3) is formally expressed in sanctions of the relevant provisions of branches of law; 4) is based on state coercion (closely related to the state); 5) entails certain negative consequences (personal, property, organizational) for the person who committed the offence 6) has a procedural form of implementation (Ukrainian legislation has a certain procedure and sequence of actions provided for the onset of legal liability); 7) has grounds for occurrence determined by law ([Zelena, 2021](#)).

Legal liability as a phenomenon of objective law is the adverse personal, property or organizational consequences provided for by the sanctions of the law, ensured by the possibility of using state coercion, which the relevant subject of law suffers for the committed offence (violation of subjective rights) and which are procedurally fixed in the manner prescribed by law.

About the general theoretical characterization of legal liability as an element of the content of legal relations, in our opinion, the content of the phenomenon under study will be closely related to the concepts of "subjective right" and "legal obligation" as constituent parts of subjective law and the content of legal relations. In our opinion, this state of affairs is explained by the fact that the concepts of subjective right and legal obligation as elements of legal relations are recognized in the general theoretical scientific literature as paired, interrelated categories. When studying the structure of legal obligation, legal scholars traditionally rely on the fact that it is the reverse side of the structure of subjective right. Accordingly, one of the elements of the structure

of a legal obligation is the need to “bear legal responsibility for failure to comply with the requirements”, and “bear legal responsibility (deprivation of personal property or organizational rights) in case of refusal to comply with the requirements”, legal obligations or their dishonest fulfilment if it contradicts the requirements of a legal provision.

Legal liability as an element of the content of legal relations has the following features: 1) it has a specific form; 2) it reflects the “dynamics” of the legal form of this phenomenon and is directly related to human activity; 3) it is closely related to the subject of law, his/her behaviour, consciousness, will and is personalized; 4) it is expressed in the specific obligation of the offender to suffer negative consequences of a personal, property or organizational nature; 5) it is realized through legal relations arising from the fact of violation of subjective rights (offence); 6) it has an individual procedural form depending on each specific case ([Ostapenko et al., 2020](#)).

Based on the peculiarities of legal liability as an element of legal relations, we have grounds to formulate the definition of this legal phenomenon as follows: Legal liability as an element of legal relations is the type and scope of the subject’s obligation to suffer personal, property damage, harm, health and organizational deprivation in legal relations arising from an offence provided for by the sanctions of legal norms ([Skrynkovskyi & Tyrkalo, 2022](#)).

The categories of “legal liability as an institution of objective law” and “legal liability as an element of the content of legal relations” are interrelated. Legal liability as an institution of objective law is reflected in the rules of law of regulatory legal acts and other sources of law of the national legal system. It exists objectively, regardless of the specific facts of offences. In its abstract form, legal liability as an institution of objective law affects both the formation and functioning of the legal consciousness of legal entities and the rule of law in society and the state. Legal liability as an element of the content of legal relations is a specific manifestation of the phenomenon of legally significant behaviour of a particular legal entity that has a certain legal position (legal status) ([Dolgikh, 2020](#)).

Legal liability is one of the most important characteristics that demonstrate the uniqueness of the EU legal system. EU law is based on international law, but above all, it has an integrative goal - to create a strong union of the peoples of Europe. It has many features and combines elements of international and domestic law. Many scholars and political scientists believe that EU law is evolving into national law in the traditional sense, but it should be understood more as a supranational federal or even confederative law.

Legal accountability in the context of European human rights standards is defined as a system of norms and mechanisms that ensure the observance and protection of the rights and freedoms of every person. The basic principles of legal liability are enshrined, in particular, in [the European Convention on Human Rights \(ECHR\) \(1950\)](#). It is through

the effective enforcement of human rights, in particular the right to individual recourse for the protection of violated rights, that the Convention became the first international legal instrument to protect a wide range of civil and political rights. The Convention and its Protocols are, by their legal nature, a binding international legal treaty that has introduced a system of supranational control over the observance of human rights at the national level.

The rights and freedoms provided for in the Convention cover the most important aspects of human life and have civil, political, economic and social dimensions. The main ones are the right to life, liberty, security of person, freedom of movement, freedom of thought, conscience, religion, expression, peaceful assembly and association, the right to found a family, respect for private and family life, the right to a fair trial, peaceful enjoyment of property, prohibition of discrimination, torture, slavery and forced labour, and the inadmissibility of punishment without law ([Završnik, 2020](#)).

At the same time, the Convention stipulates that to protect the interests of the state, national security, economic well-being, public health or morals, or the rights and freedoms of others, or to prevent crime or disorder, States Parties may restrict the human rights enshrined in the Convention. However, this right of states is also not absolute, and under no circumstances can the state's obligation to respect the right to life, the prohibition of torture, slavery, and the inadmissibility of retroactive application of the law be violated. Ensures the right to a fair and independent trial with the right to freedom from unacceptably prolonged detention. Recognizes the presumption of innocence until proven guilty. The ECHR also prohibits the use of torture and inhuman or degrading treatment or punishment to extract confessions.

Council Framework Decision 2009/299/EC of the Council of the European Union of February 26, 2009, amending Framework Decision 2002/584/EC on a European arrest and transfer procedure between Member States (2009) is an important legal instrument for ensuring the guarantees provided to suspects and accused persons in criminal proceedings. Let us consider this decision in more detail in terms of legal liability. The Framework Decision defines the suspect's right to information about the charges and guarantees access to a lawyer at various stages of criminal proceedings. It ensures legal accountability by allowing individuals to effectively protect their rights and interests. The Framework Decision guarantees the right to translation and interpretation to suspects and accused persons who do not understand the language of the proceedings. This contributes to a clear understanding of all aspects of the criminal process, which is important for bringing to justice.

The Framework Decision establishes the presumption of innocence, which means that everyone is presumed innocent until proven guilty. This is a key principle of legal accountability that ensures the fairness of criminal proceedings. The judgment guarantees the right to an effective judicial defence, including the right to adequate time and facilities to prepare one's defence strategy. This is an important part of legal

accountability prevents violations of fair trial, and is essential to protect personal dignity and prevent ill-treatment during inspection or arrest. The judgment provides for the right to compensation in the event of unlawful arrest or conviction of a suspect or accused. It encourages the system to recognize and correct legal errors and violations of rights. The Framework Decision on the Rights of Suspects and Accused Persons in Criminal Proceedings promotes legal accountability by ensuring justice, protecting human rights and preventing abuse in criminal cases ([Lawson & Beckett, 2021](#))

The European Social Charter (1965) is a set of legal standards and norms that oblige member states to respect and ensure the realization of the economic and social rights of citizens. It is an international treaty that protects and establishes certain social and economic rights of citizens of the countries that have joined the Charter. It defines the social orientation of the economic development of European countries. It sets out high material standards of living that can be achieved in the context of the effective functioning of a socially oriented market economy and interaction between public authorities, entrepreneurs and employees in resolving controversial issues of organizing modern forms of production. The Charter enshrines broad social rights of employees (too high standards of labour protection, rest, unemployment insurance, pension provision, equality of women and men in remuneration, legal strike, etc.) and establishes mutual obligations of social partners.

Let's look at these aspects from the perspective of legal liability. By signing and ratifying the European Social Charter, member states assume a legal obligation to ensure and guarantee the realization of the rights outlined in the Charter to the fullest extent possible. This creates a legal basis for the implementation of socio-economic standards. The European Court of Human Rights and other human rights bodies in Europe act as human rights mechanisms to monitor and remedy violations related to non-compliance with obligations under the European Social Charter. This strengthens the legal responsibility of states to international bodies. Citizens have the right to apply to national courts when their social and economic rights enshrined in the European Social Charter are violated. This encourages national legal systems to act to remedy violations.

Member states are required to report regularly to the relevant committees and bodies on the implementation of the European Social Charter. This monitoring mechanism is key to determining the level of implementation and encouraging states to comply with legal obligations. Member States must take concrete measures to ensure the realization of economic and social rights derived from the Charter. This may include the adoption of legislation, programs and other practical measures. Legal accountability provides for the possibility of sanctions in cases of systematic violations of economic and social rights, including before the European Court of Human Rights or other international bodies. The legal accountability enshrined in the European Social Charter creates a system of obligations and mechanisms aimed at ensuring effective protection and realization of the socio-economic rights of citizens ([Reglitz, 2020](#)).

Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 (2014) concerns damages for infringements of competition rules. The Directive establishes certain rules governing claims for damages under national law for infringements of the competition laws of the Member States and the European Union. The main provisions and aspects of the Competition Directive are as follows. The main objective, as stated in the preamble to Directive 2014/104 (para. 9), is to prevent the growth of differences between the rules of the Member States governing competition damages. Unfortunately, the Directive does not contain a definition of damage and its components. However, the principle of the right to full compensation is provided for in this Directive (Article 3(1)).

The Directive entitles victims of competition law violations to file claims for damages. This strengthens the position of those who have become victims of unfair market practices. The Directive establishes mechanisms to facilitate the damage process. It establishes liability for damage found to be anti-competitive and provides victims with access to effective remedies. The Directive promotes cooperation between the courts and state authorities responsible for competition protection. This makes the redress process more efficient and simplifies potential claims. The Directive sets out mechanisms for limiting the liability of those who detect competition violations. This may encourage those who have information about violations to report them and facilitate the detection of violations. The Directive obliges courts and competition authorities to ensure that victims have access to the necessary evidence to support their claims for damages. The purpose of the Directive is to create a more effective system of compensation for victims of competition law infringements and to promote greater legal accountability for violators of these rules.

The European Union has considerable powers to define and regulate legal liability at the level of member states. These are set out in the main treaties, such as the Treaty on the European Union and the Treaty on the Functioning of the European Union, which allocate EU powers to the institutions and member states to create a unified system of legal liability. The European Commission, as the executive body of the EU, has the power to initiate legislation and monitor its implementation. It plays a key role in developing strategies and initiatives aimed at strengthening legal liability. According to Article 17 of the Treaty on European Union, the Commission performs several functions: it develops medium-term strategies; drafts legislation and arbitrates in the legislative process; represents the EU in trade negotiations; develops rules and regulations, for example, in the field of competition policy; draws up the budget of the European Union; and verifies compliance with contracts and legislation. In addition, the Commission is responsible for ensuring that member states fulfil their obligations to adopt and implement legal acts and can bring cases to the European Court of Human Rights in case of non-compliance ([Yakymchuk, 2021](#)).

The European Parliament, as a representative body of citizens, plays an important role in the adoption of laws. Its participation in the process of reviewing and approving

legal initiatives gives the system legitimacy and democracy. The European Parliament, at the request of a quarter of its members, can set up ad hoc committees to investigate cases of violation of EU law or its misapplication (Article 226 of the Treaty on the Functioning of the EU). It can appoint an official responsible for monitoring the observance of the legitimate rights and interests of citizens in the activities of executive authorities and officials (the European Ombudsman).

The Court of Justice of the European Union is a key player in defining and interpreting legal liability. The role of the Court is to ensure compliance with EU law as interpreted and applied by the Member States. To this end, the Court of Justice performs the following functions: verifies the legality of acts of the European Union institutions; ensures the fulfilment of obligations of the Member States under the EU treaties; interprets the law of the European Union at the request of national courts and tribunals. The European Union's powers in the area of legal liability create a comprehensive approach aimed at ensuring the protection of the rights and interests of citizens and the efficient functioning of the internal market.

Here are some key aspects and positions of the EU Court of Justice on legal liability. The EU Court of Justice has developed the principle of direct action, which allows citizens and legal entities to directly challenge violations of European law in court. For example, in the case of *Van Gend en Loos v Nederlandse Administratie der Belastingen* (1963), the Court recognized that citizens can invoke the direct effect of European rules in national courts. Case 26/62 became a landmark case of the European Court of Justice, which established that the provisions of the Treaty establishing the European Economic Community can create legal rights that can be enforced by both individuals and legal entities in the courts of the Community member states. This is now called the principle of direct effect. This case is recognized as one of the most important and perhaps the most famous events in European Union law ([Kalenichenko, 2020](#)).

The case arose in connection with the reclassification of a chemical substance by the Benelux countries into a customs category with higher customs duties. The preliminary issues were raised by the Dutch Tariff Commission in a dispute between Van Gend en Loos and the Dutch Tax Administration (*Nederlandse Administratie der Belastingen*). The CJEU ruled that this violated the treaty provision requiring Member States to gradually reduce customs duties among themselves, and further ruled that this violation could be challenged by individuals in national courts, not just by Community Member States.

A milestone on this path was a landmark judgment of the EU Court of Justice that has become one of the classics. In November 1991, in the case of *Frankovic v. Italy* (1991) C-6/90, the Court of Justice of the European Union ruled that member states are obliged to compensate individuals for damages caused by their fault as a result of a breach of the law. This decision was negatively perceived by many member states, but despite this, the Court of Justice still enshrined this principle. However, a prerequisite for such

liability must be the existence of a causal link between the losses suffered by the person and the unlawful actions of the state. Regardless of which state body is responsible for the damage, the state will still be a subsidiary defendant. In European Union law, this principle is sometimes referred to as the principle of state responsibility or the “Frankowitz rule”.

The Court of Justice of the European Union adheres to the principles of fair trial, providing protection and compensation to the parties in the case. In the case of *Kadi and Al-Barakaat International Foundation v. Council and Commission* (2008) C-402/05, the Court of Justice defined the right to an effective judicial defence in sanctions-related cases. The European Court’s decision reflected a choice between absolute recognition of international law and prioritizing its constitutional requirements, based on the assumption that international law is still evolving - a view widely held after the war on terror and the invasion of Iraq in 2003. This was contrary to the U.S. Supreme Court’s decision in *Murray v. Betsy the Magic Schooner* that an act of Congress should never be construed to violate the laws of states if there are other possible constructions or if it is “reasonably possible” to avoid conflict. In general, the practice and interpretation of the EU Court of Justice in legal liability cases is aimed at protecting the rights and ensuring the implementation of European law in all spheres of life.

To understand the legal liability regimes in the European Union, the CJEU applies various categories to interpret the relevant rules and ensure a stable legal framework. The CJEU interprets legal liability regimes in the context of fundamental principles of European law, such as the principles of legality, transparency, efficiency and effectiveness. To establish the legal liability regimes, the CJEU uses legal principles and wording set out in legislative acts. This involves analyzing the text of the law, its purpose and context. The Court interprets legal liability regimes by general principles of EU law, such as the principles of equality before the law, fair trial, proportionality and the right to an effective remedy. The CJEU focuses on the protection of human rights in the context of legal liability, in particular concerning the standards of the European Convention on Human Rights ([Wardantik & Prawesthi, 2023](#)).

The EU Court of Justice can take into account and interpret the national legislation of the Member States in the process of determining legal liability regimes to ensure the unity of the EU legal order. The CJEU can set precedents by reviewing judgments in previous cases that set out principles and standards for the interpretation of legal liability regimes. These categories interact and form the basis for understanding and applying legal liability regimes in the European Union. They define the context in which decisions are made and form the unity of the EU legal system.

A key aspect of legal accountability is the legal remedies that provide citizens with access to courts and other human rights bodies to protect their rights. The European Court of Human Rights (ECHR) fulfils this role by examining citizen complaints and cases of human rights violations. The European Court of Human Rights is an

organization established to monitor the observance of human and civil rights and freedoms enshrined in the European Convention on Human Rights, which was ratified in 1953. The ECHR decision may contain not only a statement of a violation but also an award of compensation to the victim.

Legal liability, in particular through legal remedies, is an important element of the human rights protection system that ensures the effective protection of citizens' rights and freedoms. Let us consider this aspect using examples from the case law of the European Court of Human Rights.

Fair trial - in the case of *Kudla v. Poland* (2000), a Polish citizen complained about a violation of his right to a fair trial due to the length of criminal proceedings against him. The ECHR ruled that a lengthy trial was contrary to the requirements of Article 6 of the Convention on Human Rights. In the case of *Kudla v. Poland*, the European Court found that the correct interpretation of Article 13 is that it guarantees an effective remedy before a national authority in case of an alleged violation of the requirement of Article 6(1) to consider the case within a reasonable time. In deciding the case, the court awarded compensation for the unacceptable length of the proceedings. This case demonstrates how the European Court of Human Rights is trying to ensure the fairness of the proceedings and protect the rights of citizens ([Marin, 2021](#)).

Freedom of expression. In the case of *Lingens v. Austria* (1986), the ECHR ruled that Austrian courts violated the right to freedom of expression by imposing a fine for a journalist's article on political events. The court recognized this violation and ordered the state to compensate for the damage. The ECHR is guided by the principle of proportionality, which means that restrictions imposed on a person in the public interest must be proportionate to the need for their application. The state has the right to restrict the right to expression only in exceptional cases of critical public importance. The case of *Lingens and Kreisky* was not such a case, and therefore the sanctions imposed by the Austrian court on the journalist were not proportionate to his actions. Moreover, the European Court considers the practice of such sanctions to be dangerous, as it may prevent the press as a whole from fulfilling its mission of disseminating information and ideas.

In other words, the practice of judicial intervention in such cases sets a dangerous precedent for freedom of speech in general. The ECHR has distinguished between the concepts of "fact" and "value judgment". "The existence of facts can be proved, while the validity of value judgments cannot be proved. In the case of value judgments, this requirement cannot be met, and this violates the very freedom of expression guaranteed by Article 10 of the Convention". According to the Court, a journalist is responsible before the law and society for the truthfulness of the facts presented, but his or her personal opinion cannot be legally assessed for truthfulness or fairness; it is deeply subjective. The case of *Lingens v. Austria* became a landmark for the entire European press. Since then, the European Court of Human Rights has not changed its position ([Zelena, 2021](#)).

The right to life and prohibition of torture - in the case of *El-Masri v. Macedonia* (2012), an Albanian citizen filed a complaint with the ECHR, claiming that he had been illegally detained and tortured in Macedonia. El-Masri claimed that his detention and torture violated the right to life and the prohibition of torture, protected by Articles 2 and 3 of the European Convention on Human Rights, respectively. He also pointed to the lack of an effective remedy in Macedonia, as no national authority could compensate him for his suffering. The Court found that Macedonia had violated Articles 3 (prohibition of torture) and 5 (right to liberty and security of person) of the Convention. The Court also ruled that Macedonia was guilty of unlawful detention of El Masri, as well as of allowing his rendition to known American agencies. The decision emphasizes the violation of effective legal protection in Macedonia, which removed it from the jurisdiction of the ECHR. The case caused outrage and criticism of the practice of extradition and secret detention in the context of the fight against terrorism.

This decision contributed to the discussion on the need for effective legal protection mechanisms in such cases and the importance of compliance with international human rights standards. The case of *El Masri v. Macedonia* has become an important precedent for the protection of human rights in the context of the fight against terrorism and illegal detention. The decision of the European Court of Human Rights emphasized the importance of compliance with the standards of the Convention and the high level of legal responsibility before international judicial bodies. These cases are an example of how important legal remedies are for ensuring legal accountability and the protection of human rights in the context of European standards.

The European Ombudsman acts as an independent intermediary between citizens and the institutions of the European Union, helping to ensure proper legal accountability and increasing the openness, transparency and effectiveness of European institutions. The European Ombudsman is authorized to receive complaints about the unsatisfactory work of all Community institutions and agencies, except the Court of Justice of the European Union and the Court of Justice of the General Court. An application can be submitted independently or through a member of the European Parliament by any individual citizen or resident of the European Union, as well as a legal entity registered in the EU. It can be written in one of the 24 official languages of the EU and submitted either directly to the Ombudsman's office or sent by letter, fax or through a special form on the website. In addition, at the request of the complainant, the statement remains confidential. In response, the Ombudsman conducts an investigation: based on the complaint or its initiative, it makes relevant inquiries ([Eckert & Knöpfel, 2020](#)).

The Ombudsman acts by the principles of justice and investigates violations. In the event of violations of citizens' rights or shortcomings in the work of EU institutions, the Ombudsman may provide recommendations on measures to eliminate them. In cases of systemic or serious violations, he or she can make his or her recommendations public and criticize the relevant institutions. If deficiencies or problems are identified in a case, the European Ombudsman can provide recommendations for their elimination. This

creates a system of responsibility and penalties for institutions that may be guilty of violations. The Ombudsman takes into account not only aspects of the administrative work of the EU institutions but also monitors conditions in other contexts, including those of European agencies and other institutions. This concerns the observance of human rights in various fields of activity. The European Ombudsman also plays an important role in raising awareness among citizens about their rights and remedies. This promotes the active participation of citizens in the processes of redress and improvement of the human rights protection system.

Let us consider the state of legal regulation in the field of legal liability in the example of several countries. The distinctive differences between German law and practice in the area of legal liability can be seen in several aspects. Germany has a codified system of law, where the basic principles of law are set out in laws. However, in comparison to the United States, where precedents are often the source of law, the German system is more statutory based. The German legal system defines the principle of subsidiarity, according to which rules and obligations are regulated at different levels, taking into account the priority of the law at the lower level. This may affect the distribution of liability between different actors and levels of government.

The concept of compensation for damages in German law (*Schadenersatz*) is quite important. It implies the obligation of the person who caused the damage to compensate the injured party for the cost of the damage. This principle may differ from the approaches adopted in other jurisdictions. In Germany, there is a strong emphasis on corporate responsibility. Companies are required to take responsibility for their activities, and violations of corporate ethics standards can have serious legal consequences. Compared to other countries, Germany has a less common culture of filing large compensation claims in court. Judgments generally focus on damages rather than large awards. These differences reflect the peculiarities of the German legal system and culture, which should be borne in mind when considering legal liability in this country ([Boyko, 2021](#)).

Legal liability in Germany is defined by different branches of law. One of the main areas is civil liability, which is regulated by the Civil Code (*Bürgerliches Gesetzbuch* or *BGB*). According to this code, a person who has caused damage to another person is obliged to compensate for the damage. For example, if an employee is negligent and causes financial losses to the company, he or she can be sued for damages. Criminal liability is defined by the Criminal Code (*Strafgesetzbuch* or *StGB*). If a person commits a crime or violates a criminal law, he or she may be held criminally liable. For example, corruption, fraud, or violence can lead to criminal liability before a court of law.

Administrative liability is related to violations of administrative law and may arise as a result of unlawful actions of officials or authorities. For example, if a city administration makes a decision that violates the rights of citizens, it may result in administrative liability. Corporate responsibility implies that companies are responsible for their activities. If a company violates laws or causes harm to other parties, it can be held liable. For example,

if a company produces products that harm the health of consumers, this can lead to legal consequences, such as claims for compensation. Germany has a high level of legal liability, and the legal system supports transparency and certain standards of corporate responsibility. This helps to build public trust and creates the conditions for honest and moral business in the country.

The Irish legal system and practice in the field of legal liability have their peculiarities that may differ from other jurisdictions. Below are some of the specifics of Irish law and practice in this area. Ireland uses the common law, which means that court decisions and precedents are an important source of law. Precedents can set the rules and decide on liability issues, thereby shaping case law. The law of damages in Ireland is based on the principles of “tort law”. The basic principles are governed by the common law and case law but may be enshrined in specific legislation. There are various authorities and regulators in Ireland responsible for enforcing rules and regulations in various areas. For example, the Financial Services Commission, antitrust authorities and others ([Kofman, 2021](#)).

In Ireland, the practice of filing compensation claims may be less common than in other jurisdictions, such as the United States. However, in some cases, particularly in the areas of medical negligence and road traffic offences, claims for damages may be common. Corporate responsibility legislation in Ireland includes several rules and requirements aimed at ensuring ethical and responsible business conduct. In general, Ireland has its own unique legal and juridical system, and the differences in the law and practice of legal liability are determined by the peculiarities of its legal tradition and development.

In the field of legal liability in Ireland, civil liability is determined by the laws of torts, which define the rights and obligations of individuals in the event of damage. For example, if a company manufactures products that cause injuries or health problems to consumers, this can lead to civil liability and the company may be required to pay damages. In terms of criminal liability, the Irish Criminal Code sets out the offences and penalties for breaches of criminal law. For example, a person who commits theft or fraud can be prosecuted and convicted.

In the area of medical liability, doctors and medical institutions are responsible for their activities. If a patient suffers harm or injury as a result of medical negligence, this can lead to civil liability for medical professionals. Corporations also bear corporate responsibility. For example, if a company violates ethical standards or the rights of employees, it can be held liable by law and in court. In the field of consumer protection, Irish law defines the rights and protection of consumers from unfair actions of companies. For example, if a product does not meet the declared quality standards, the consumer may be entitled to compensation or a refund. These examples highlight various aspects of legal liability in Ireland and reflect the wide range of situations that can lead to legal consequences in various areas.

The Spanish system of law and practice in the area of legal liability has its peculiarities that distinguish it from other jurisdictions. Spain utilizes an inquisitorial system of law, where judges play an active role in the investigation and collection of evidence in criminal cases. This differs from the adversarial system that is typical of many English-speaking countries. The Spanish judicial process places great emphasis on the publicity of trials. Court hearings are often open to the public, and important decisions can be subject to wide public discussion. Spain has specialized courts and bodies that deal with certain categories of cases, such as commercial and administrative courts. For example, the Audiencia Nacional (National Court of Appeals) handles cases related to terrorism, corruption, and economic crimes ([Kolesnikova & Pechena, 2023](#)).

Spain recognizes the legal responsibility of organizations and legal entities. This means that not only individuals but also companies can be held liable for violations of the law, including corruption and economic crimes. In recent years, Spain has paid special attention to the fight against corruption. Specialized courts and institutions exist to investigate and prosecute corruption. Spanish law provides for the possibility of imposing fines on corporations in cases of violation of the law, including corruption and human rights violations. These aspects highlight the peculiarities of the Spanish legal system and practice in the area of legal liability. It is important to note that legal systems and practices are subject to evolution and the sequence of these characteristics may change over time.

The Spanish legal liability system is defined by a diverse set of laws and regulations governing various aspects of legal liability. The main characteristics include civil, criminal and administrative liability. Under civil law, individuals and legal entities have certain rights and obligations to compensate for damages caused to others. For example, if a person is a victim of a traffic accident caused by another driver, civil law may provide for the victim's right to receive compensation from the perpetrator. In the criminal sphere, laws define offences and establish liability for their commission. For example, a person accused of committing fraud or corruption may be held criminally liable in court. Another important aspect is the liability of organizations. According to Spanish law, companies and legal entities can be held liable for various offences, such as corruption, human rights violations, or environmental crimes. For example, if a corporation is guilty of violating environmental regulations, it may be deprived of its license and fined ([Matveeva, 2020](#)).

The fight against corruption is particularly important in Spain. Cases of corruption and other organized crimes are handled by specialized courts and institutions, such as the National Audit Office (Audiencia Nacional). In the area of administrative liability, there are rules governing actions in the areas of public administration, construction and the environment. For example, in case of violation of building regulations, administrative authorities may impose fines and sanctions on the perpetrators. Spain also provides for the possibility of imposing fines on corporations for violations of various aspects of competition, consumer protection and other laws. These examples highlight the various

aspects of legal liability in Spain and emphasize the different areas of law and practice that may have legal consequences for individuals and entities.

IV. Discussion

The priority directions of Ukraine's foreign and integration policy are the European Union and Europe as a whole. Therefore, harmonization of legislation with European standards is a necessary step on this path. This also applies to legal liability. As Ukraine strives for European integration, it needs to learn from the experience of the European Union and its member states in the area of legal liability. Here are a few aspects that are worth paying attention to.

The EU pays great attention to ensuring the independence of the judiciary. Transparency in the appointment of judges, their careers and protection from external pressure are key aspects. Ukraine can learn and implement best practices to strengthen the independence of the judiciary. European countries recognize the key role of judicial independence in ensuring justice and legal stability. For example, Germany has a principle of "judicial autonomy" that ensures that judges can decide cases without external pressure or interference. This principle promotes public trust in the judiciary.

The European Union actively fights corruption through special anti-corruption bodies, financial control and transparency mechanisms. Ukraine needs to adopt these strategies to create an effective anti-corruption system in all spheres of society. The effectiveness of the fight against corruption can be illustrated by the experience of Sweden, which has a system of transparency and a high level of openness in public procurement. Latvia has also introduced a system of declaring interests for officials, which reduces the risk of corruption.

EU countries have an effective system of administrative liability for violations of various norms and standards. It would be useful for Ukraine to study these mechanisms and implement them to improve internal control and respond effectively to violations. France uses a system of administrative sanctions for environmental and economic violations. For example, companies can face heavy fines for violating environmental regulations, which helps to encourage responsible behaviour.

The EU recognizes the importance of individual rights and freedoms. Human rights mechanisms and access to courts play a key role. Ukraine should adopt best practices to ensure the protection of citizens' rights and fair trials. Spain demonstrates the importance of establishing effective human rights mechanisms through its National Human Rights Commission. This organization cooperates with the government, civil society and international partners to ensure the protection of citizens' rights.

European countries have developed systems of legal liability for companies, including in the areas of corporate governance, financial reporting, and liability for violations of the law. Ukraine should adopt this experience to improve the corporate sector and prevent violations. Switzerland determines the liability of companies for

violations of human rights or environmental standards. This may include fines and compensation to victims. Examples of such solutions can serve as an important reference point for Ukraine in creating a system of legal liability for companies.

The introduction of such elements of the legal system will help Ukraine to increase legal accountability, strengthen the rule of law, and increase confidence in the country's justice system. By adhering to these aspects, Ukraine can improve its legal liability system, making it more efficient and in line with European standards.

V. Conclusion

Legal liability is a crucial concept in modern legal doctrine, serving as the basis for the rule of law, guaranteeing rights, and protecting interests. It is based on normative, guaranteed, and enforced obligations to comply with the rules of law, which are realized in the lawful behaviour of legal entities approved by the state or other authorized bodies. The EU has unique legal liability principles, reflecting general law principles, the European Court of Human Rights case law and the European Court of Justice. The EU law significantly influences the national legislation of its member states, rooted in the basic traditions and customs of international law. Ukraine's foreign and integration policy is centred on the European Union and its member states, emphasizing the need to harmonize legislation with European standards. This circumstance includes legal liability. The EU places great emphasis on ensuring the independence of the judiciary, promoting transparency in appointments and careers, and protection from external pressure. Ukraine can learn best practices to strengthen this independence, such as Germany's "judicial autonomy" principle that promotes public trust in the judiciary. The EU fights corruption through special anti-corruption bodies, financial control, and transparency mechanisms. Ukraine should adopt these strategies to create an effective anti-corruption system across all spheres of society. Sweden and Latvia have implemented transparent systems, while Sweden has a high level of openness in public procurement. Latvia has introduced a system of declaring interests for officials, reducing the risk of corruption.

EU countries have effective systems of administrative liability for violations of various norms and standards. Ukraine should study and implement these mechanisms to improve internal control and respond effectively to violations. France uses administrative sanctions for environmental and economic violations, encouraging responsible behaviour. Spain demonstrates the importance of establishing effective human rights mechanisms through its National Human Rights Commission. European countries have developed systems of legal liability for companies, including corporate governance, financial reporting, and liability for law violations. Ukraine should adopt these experiences to improve the corporate sector and prevent violations. Switzerland determines the liability of companies for violations of human rights or environmental standards, which can serve as a reference point for creating a system of legal liability for companies. By adhering to these aspects, Ukraine can improve its legal liability system, making it more efficient and in line with European standards.

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