

The legal system reform of Ukraine in the context of EU integration and hybrid threats

A reforma do sistema jurídico da Ucrânia no contexto da integração da UE e das ameaças híbridas

La reforma del sistema jurídico de Ucrania en el contexto de la integración en la UE y las amenazas híbridas

Yurii Kryvytskyi

<https://orcid.org/0000-0002-7063-4725> 

Associate Professor at the National Academy of Internal Affairs, Ukraine
yurii.kyiv1969@gmail.com (correspondence)

Liudmyla Kuznetsova

<https://orcid.org/0000-0001-6810-1017> 

Associate Professor at the Cherkasy State Technological University, Ukraine

Veronika Chekaliuk

<https://orcid.org/0000-0003-1223-6646> 

Doctoral Student at the Taras Shevchenko Nation University of Kyiv, Ukraine

Iryna Maidaniuk

<https://orcid.org/0000-0001-8096-0244> 

Head of Department of Culturology at the National University of Life and Environmental Sciences of Ukraine, Ukraine

Anton Khriapynskyi

<https://orcid.org/0000-0002-2492-051X> 

Director at the Khriapynskyi and Co, LTD, Ukraine

ARTICLE HISTORY

Received: 04-07-2024

Revised Version: 20-11-2024

Accepted: 06-12-2024

Published: 20-12-2024

Copyright: © 2024 by the authors

License: CC BY-NC-ND 4.0

Manuscript type: Article

ARTICLE INFORMATION

Science-Matrix Classification (Domain):

Economic & Social Sciences

Main topic:

Legal system reform

Main practical implications:

The practical contribution of the study is to formulate recommendations for creating a unified strategy for combating hybrid threats in the EU and adapting Ukrainian legislation to European standards.

Originality/value:

The originality of the study lies in the search for legal mechanisms to counter hybrid threats in the context of European integration, which is little studied in modern scientific literature.

ABSTRACT

The relevance of the chosen topic is determined by Ukraine's European integration aspirations and the need to bring its legal system into line with European standards, creation of the state image of an independent state striving for integration with the European community. The aim of the research is to investigate the reform of the legal system in the context of Ukraine's integration into the EU in the face of hybrid threats and to search for legal mechanisms to counter such hybrid threats. The author used descriptive, comparative (comparative legal), and legal act analysis methods. Special attention was paid to special methods of scientific research, in particular, the method of interpreting legal norms. As a result of the study, the author concluded that Ukraine has made significant progress in aligning its legal system with European standards, but there is still much work to be done in this direction. The author formulated recommendations for developing mechanisms to counter hybrid threats, both at the level of Ukraine and at the pan-European level. In particular, it was proposed to develop a single pan-European strategy to combat hybrid threats at the EU level. The implementation of the proposed recommendations, in particular, will lead to the integration.

Keywords: hybrid threats, state image, European integration of Ukraine, national security, legal system.

RESUMO

A relevância do assunto escolhido é determinada pelas aspirações de integração europeia da Ucrânia e pela necessidade de alinhar seu sistema jurídico aos padrões europeus, criando a imagem de um Estado independente que luta pela integração com a comunidade europeia. O objetivo da pesquisa é investigar a reforma do sistema jurídico no contexto da integração da Ucrânia à UE em face de ameaças híbridas e buscar mecanismos jurídicos para combater essas ameaças híbridas. O autor utilizou métodos descritivos, comparativos (jurídico comparativo) e de análise de atos jurídicos. Foi dada atenção especial a métodos especiais de pesquisa científica, em particular, o método de interpretação de normas jurídicas. Como resultado do estudo, o autor concluiu que a Ucrânia fez progressos significativos no alinhamento de seu sistema jurídico com os padrões europeus, mas ainda há muito trabalho a ser feito nesse sentido. O autor formulou recomendações para o desenvolvimento de mecanismos para combater ameaças híbridas, tanto em nível da Ucrânia quanto em nível pan-europeu. Em particular, foi proposto o desenvolvimento de uma única estratégia pan-europeia para combater as ameaças híbridas em nível da UE. A implementação das recomendações propostas, em particular, levará à integração.

Palavras-chave: ameaças híbridas, imagem do estado, integração europeia da Ucrânia, segurança nacional, sistema jurídico.

RESUMEN

La relevancia del tema elegido está determinada por las aspiraciones de integración europea de Ucrania y la necesidad de adecuar su sistema jurídico a los estándares europeos, la creación de la imagen estatal de un estado independiente que lucha por la integración con la comunidad europea. El objetivo de la investigación es investigar la reforma del sistema jurídico en el contexto de la integración de Ucrania en la UE frente a las amenazas híbridas y buscar mecanismos legales para contrarrestar dichas amenazas híbridas. El autor utilizó métodos descriptivos, comparativos (jurídicos comparativos) y de análisis de actos jurídicos. Se prestó especial atención a los métodos especiales de investigación científica, en particular, al método de interpretación de las normas jurídicas. Como resultado del estudio, el autor concluyó que Ucrania ha logrado un progreso significativo en la alineación de su sistema jurídico con los estándares europeos, pero aún queda mucho trabajo por hacer en esta dirección. El autor formuló recomendaciones para desarrollar mecanismos para contrarrestar las amenazas híbridas, tanto a nivel de Ucrania como a nivel paneuropeo. En particular, se propuso desarrollar una estrategia paneuropea única para combatir las amenazas híbridas a nivel de la UE. La aplicación de las recomendaciones propuestas conducirá, en particular, a la integración.

Palabras clave: amenazas híbridas, imagen del Estado, integración europea de Ucrania, seguridad nacional, sistema jurídico.

INTRODUCTION

Throughout its long history, our country Ukraine has identified itself as a European country culturally, ideologically, and politically. Therefore, upon gaining independence in 1991, following internal socio-political quests, Ukraine chose the path of building a European model of governance and values as a decisive choice for its future. European identity was demonstrated during the Revolution of Dignity in 2013-2014, where Ukrainians stood up for a Western-oriented development of the country, and later during the ongoing war with Russia. Ukraine's commitment to the European path is rooted both in its Constitution and in its civilizational ties to the European community (Bulletin of the Verkhovna Rada of Ukraine, 1996). Today's political and economic realities dictate new conditions for exiting the crisis and creating a public image of an independent state that seeks integration with the European community.

Shortly after Ukraine declared independence, the EU issued a Declaration on Ukraine. In this declaration, the EU recognized the democratic nature of the All-Ukrainian referendum held to confirm Ukraine's independence and expressed support for Ukraine's path to democracy and its integration into the European community. The EU Declaration also emphasized the importance of maintaining a constructive and open dialogue between Ukraine and the EU (Vidnyanskyi, 2018). This call for dialogue reflected the EU's readiness to cooperate with Ukraine and develop cooperative relations even before the official conclusion of any kind of comprehensive agreement.

During the period from 2007 to 2012, 21 rounds of negotiations on the Association Agreement were held, as well as 18 rounds dedicated to creating a comprehensive and detailed free trade area (Rozmaritsyna, 2023; Gryshchenko et al., 2023). The name of the Agreement was clarified based on a proposal from the EU. Ukraine's commitment to European integration and significance of measures for its implementation were confirmed at the parliamentary level. On September 16, 2014, the Verkhovna Rada of Ukraine and the European Parliament simultaneously ratified the Association Agreement between Ukraine and the EU (Verkhovna Rada of Ukraine, 2014).

The signing and ratification of the Agreement marked the beginning of a new stage in the relations, characterized by political association and economic integration. The implementation of this Agreement is based on the Action Plan approved by the Cabinet of Ministers on September 17, 2014, which is regularly updated. After a lengthy ratification process, the Agreement entered into full force on September 1, 2017. The Association Agreement, signed in 2014, can be considered a detailed roadmap for Ukraine's path to full membership (Grytsenko et al., 2021).

Ukraine aims to become a full member of the EU and considers it to be its strategic goal. The Agreement and its Agenda will further political association and economic integration through the initiation of comprehensive and practical cooperation. These initiatives will focus on key goals such as consolidating democratic reforms, reforming the judicial system, upholding the rule of law and human rights, promoting transparency and democratic accountability, combating corruption, and increasing citizen participation in decision-making processes in Ukraine. Creating a modern image of the state is also an important issue, which is a primary task for diplomats, media workers, politicians, economists, civil servants, and scientists. The political and economic development of the country depends on it.

Since the beginning of Russian aggression against Ukraine in 2014, the situation in Ukraine and events surrounding the country have received special attention within the framework of the European Union's Common Foreign and Security Policy. The full-scale military aggression by Russia against Ukraine since February 2022 has only accelerated Ukraine's European integration. On February 28, 2022, Ukraine submitted its application for EU membership, and on June 23, 2022, EU leaders granted Ukraine candidate status for EU membership. However, there are still many challenges and obstacles that need to be addressed. Currently, Ukraine faces several challenges in its pursuit of European integration, primarily reforming its legal system and aligning national legislation with European standards. The country prioritizes its European integration goals, working to align its laws with EU laws. This process involves approximation and harmonization of national legislation with the legal principles and standards of the EU. The integration of Ukraine's legal system into the broader European legal space also entails joint legal resistance to current common threats, known as hybrid threats (hereinafter - HT).

HT today pose a real risk to all European states. Their aim is to destabilize the target using constantly evolving means and tactics that are not easy to detect, let alone attribute the attack, be it a state or not (Lonardo, 2021). The international environment is becoming increasingly hybrid in nature. International and regional law aims to promote security, justice, cooperation, predictability, and common values, but hybrid activities play the opposite role. Aurel Sari calls it the "tragedy of international law" (Sari, 2019). This is why there are calls in the academic community to analyze when states are vulnerable to HT and to identify mechanisms to combat them (Hickman et al., 2018; Papadimos & Stawicki, 2021). Therefore, reforming the legal system in the context of Ukraine's integration into the EU in the face of HT involves searching for legal mechanisms to counter such hybrid threats.

Goals and objectives

The goal of this article is to explore the reform of the legal system in the context of Ukraine's integration into the EU in the face of hybrid threats and to search for legal mechanisms to counter such hybrid threats.

Research questions:

- Determine the overall state of the legal system reform in the context of Ukraine's integration into the EU;
- Identify the problems of legal resistance to HT in the pan-European space and in the national legislation of Ukraine;
- Formulate recommendations for bringing Ukrainian national legislation into line with pan-European standards in the context of countering HT.

LITERATURE REVIEW

Analyzing the existing research of domestic and foreign experts, there is a need to algorithmize the work and create conclusions, in accordance with the demands of the time. The issue of legal system reform in the context of Ukraine's integration into the EU has been extensively discussed in the scientific literature of Ukraine for a long time. Numerous scientific publications cover various aspects of the issue (Azimov, 2023; Shvager & Baranyuk, 2023; Bondarenko, 2023).

A number of studies have noted the successful experience of countries that have joined or are joining the EU in reforming their own legal framework to strengthen resilience to hybrid threats. For example, Šešelgytė and Bladaitė (2021) and Kalniete and Pildegovičs (2021) noted the experience of the Baltic states as states on the front lines of the fight against hybrid threats from the Russian Federation. In the researchers' opinion, Latvia, Lithuania, and Estonia have a significant arsenal of countermeasures against such threats, such as the spread of disinformation campaigns. As in Ukraine, these disinformation campaigns included narratives that defined the Baltic states as "nationalistic failed states heading for decline after joining the EU." In addition, they spread views that NATO was using these countries as a platform for future aggression against the Russian Federation. Solik and Graf (2023) and Stănescu (2023) reviewed Moldova's experience in countering hybrid threats and reforming the legal framework accordingly as a country with European integration intentions. The scholars noted that among the main measures to destabilize the situation in Moldova, the Russian Federation uses disinformation, calls for unrest, cyberattacks, false threats, etc. From these works, we can conclude about the importance of international cooperation and support in the context of countering such types of threats. Solik and Graf (2022) also examined hybrid threats from the Russian Federation in the context of European integration using the example of Bosnia and Herzegovina and Serbia. The scholars concluded that Russian political influence, disinformation campaigns, and the Russian Federation's energy policy slow down the accession process.

The issue of countering HT has also become highly relevant and is at the center of public attention. In recent years, many scientific works have focused significant attention on specific problems of countering HT in Ukraine. In particular, questions regarding the development of directions for countering HT have been the subject of research by many prominent scientists, such as Martyniuk (2018), Kovalchuk et al. (2019), PyrozHKov et al. (2021), Kresin (2022). However, understanding the phenomenon of hybrid warfare and its scale necessitates the development of an appropriate methodology for analyzing HT. Such a methodology would then generate a sufficient body of knowledge for formulating a well-founded and effective state policy to counter HT. The issue of searching for legal mechanisms to counter HT in the context of European integration remains beyond the attention of researchers.

In foreign historiography, the issue of HT is also insufficiently researched. Scholars acknowledge that HT pose a real risk to states, as their goal is to destabilize the opponent using increasingly sophisticated means and tactics that are difficult to detect, let alone attribute the attack, be it a state or not (Lonardo, 2021). However, the concept of HT remains poorly defined (Sanz Caballero, 2023). Some authors argue that instead of seeking consensus on the definition of HT, it may be better to analyze when states tend to become vulnerable and determine how to combat them (Hickman et al., 2018; Papadimos and Stawicki, 2021). Nevertheless, it is difficult to counter threats if we do not know what the phenomenon is or its configurations. Despite this, malicious asymmetric threats are growing, and therefore states and international organizations are forced to consider what actions they can take to counter them. Therefore, it is important to agree on a definition of HT that is broad enough to encompass a wide range of means of state destabilization.

Analyzing the concept and characteristics of hybrid threats HT, European scholars usually refer to the position of the European External Action Service. The European External Action Service defines hybrid campaigns as multidimensional, combining coercive and subversive measures, using both conventional and non-traditional tools and tactics. They are designed to be difficult to detect or attribute. These threats target critical vulnerabilities and seek to create confusion and hinder rapid and effective decision-making (Galinek et al., 2019; Bazarkina, 2022). However, instead of issuing a perfect

definition of HT, which does not actually exist since they vary in each specific case, both NATO and the EU advocate for characterizing such threats and providing a list of their more general features. Thus, their definition remains open to interpretation. Achieving consensus on a definition of HT acceptable to all interested parties is extremely difficult today (Wijnja, 2021).

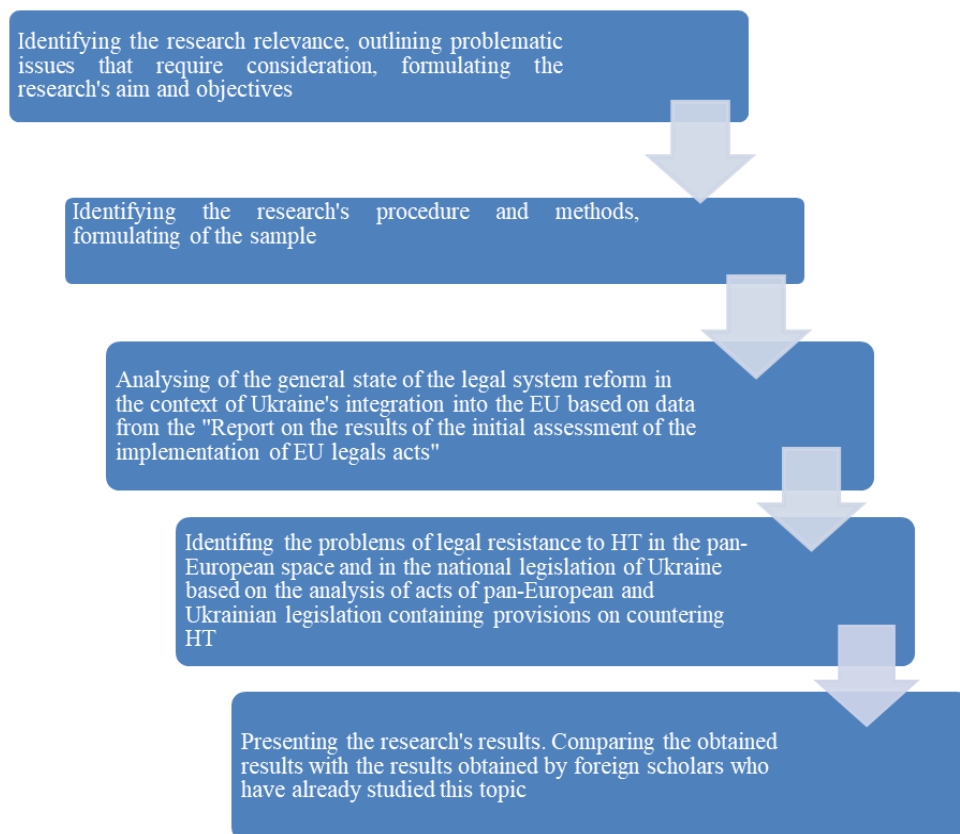
Defensive mechanisms against HT in Europe should not violate the European values recognized in Article 2 of the Treaty on European Union, including the rule of law, pluralism, equality, and human rights. At the same time, those planning a hybrid threat base their strategy on the idea that the victim state will adhere to legal and ethical norms. If the latter are not upheld, support for the state's institutions will erode, undermining the democratic system itself. From this perspective, adherence to democratic values is perceived as a vulnerability (Lonardo, 2021). Researchers conclude that democratic states are more vulnerable to delegitimization, the discrediting of citizens, and negative international reactions. Conversely, authoritarian states often have nothing to lose or fear in this sense, as they are not accountable to their own populations (Carment & Belo, 2020). However, there are other theories suggesting that autocrats sometimes enjoy broad support. As Przeworski (2022) argues, when people cannot protest, the absence of protests is uninformative: we cannot say whether they are not protesting because they believe the government is acting in their interest or because they fear repression.

METHODS

Research procedure

In general, the research procedure can be represented using the following scheme (Figure 1):

Figure 1. Research scheme



Source: Authors' development

This study is legal-normative research with a descriptive-qualitative research approach. Legal-normative jurisprudence considers the law as written in legislation (law in books) or as norms and standards that serve as guidelines for the behavior of people recognized as relevant (Amiruddin et al., 2018). Descriptive qualitative approach is a research method in which the collected data consist of words, images, rather than numerical figures (Lexy, 2018).

For the research, descriptive, comparative methods, and legal acts analysis were used. Special attention was paid to specific methods of scientific research, particularly the method of interpreting legal norms to study the content of normative legal acts that form the legal basis for countering HT in Ukraine and the EU. The comparative legal method was also used to identify common and distinctive features in legal counteraction to HT in Ukraine and the EU.

Sampling

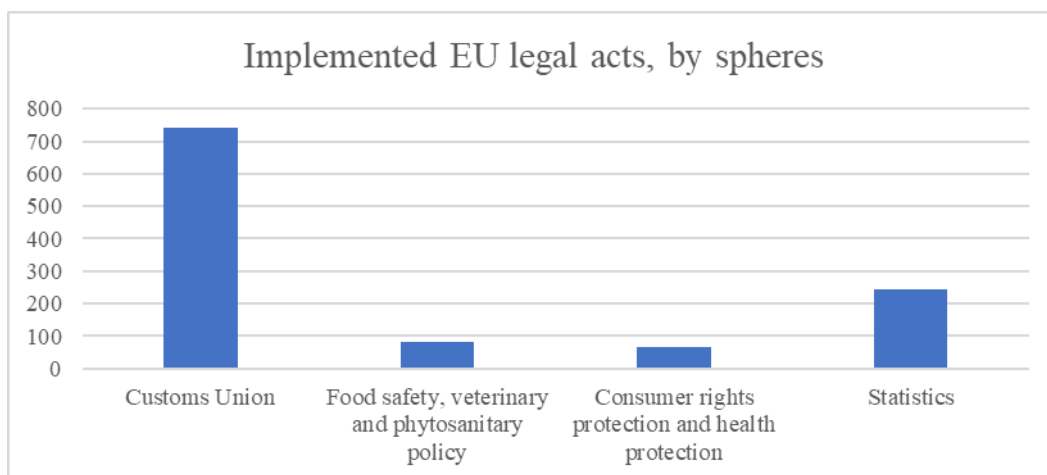
The study used the acts of general European and Ukrainian legislation containing provisions on countering HT. Thus, provisions of the EU Treaty, the Treaty on the Functioning of the EU, the practice of the ECHR, and relevant provisions of the European Convention on Human Rights on which it is based were analyzed. Among the acts of Ukrainian national legislation, the National Security Strategy for 2015, the Law "On National Security of Ukraine" for 2018, and others were considered.

The analysis of the general state of the legal system reform in the context of Ukraine's integration into the EU was based on the data from the " Report on the results of the initial assessment of the progress in the implementation of EU legal acts published", published on 14.12.2023 by the Government Office for European and Euro-Atlantic Integration (Government Portal, 2023).

RESULTS AND DISCUSSION

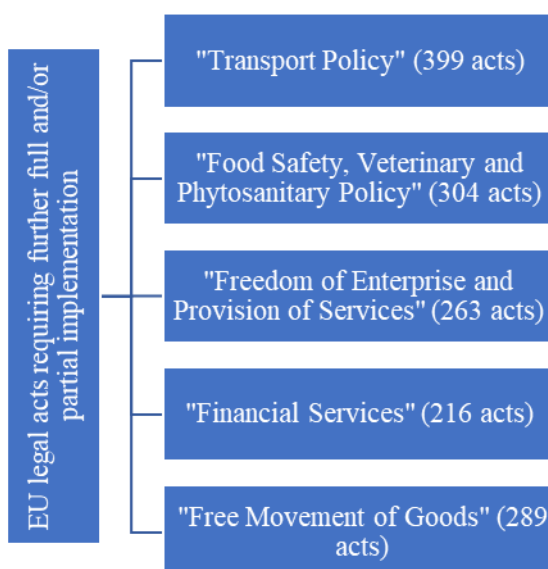
The analysis of the overall state of the legal system reform in the context of Ukraine's integration into the EU based on the "Report on the results of the initial assessment of the progress in the implementation of EU legal acts published" showed that Ukraine has made significant efforts to bring its legal system into line with European standards, especially in the customs, external relations, etc. (Fig. 2). Although, there is still much work to be done in this direction, especially in the areas of transport policy, food security, veterinary and phytosanitary policy, etc. (Fig. 3).

Figure 2. EU legal acts that have already been fully implemented into Ukrainian legislation, by specific areas (Report)



Source: Authors' development

Figure 3. EU legal acts requiring further full and/or partial implementation, by spheres (Report)



Source: Authors' development

Based on the results of the analytical expertise of Ukrainian legislation for its compliance with EU law, "at this stage, 2739 EU legal acts require further full and/or partial implementation. Another 1625 EU legal acts have been fully implemented into Ukrainian legislation. Over 23,000 EU legal acts, according to preliminary assessment, do not require implementation during the negotiation process" (Report).

At the same time, a significant number of EU legal acts still require further full and/or partial implementation, particularly regarding transport policy, food safety, etc. (Figure 3).

The provisions regarding countering hybrid threats are contained in the laws of Ukraine "On the Basic Principles of Cybersecurity of Ukraine" and "On the Foundations of National Resistance," as well as in long-term planning documents, including the "Strategy of National Security of Ukraine," which is approved by the decree of the President of Ukraine. A system of subordinate acts has been developed regarding countering hybrid and other threats to national security. In particular, these are the acts of the Cabinet of Ministers of Ukraine: "General requirements for cybersecurity of critical infrastructure facilities" in 2019, "Procedure for forming a list of critical information infrastructure objects" in 2020, "Order on approval of the action plan for the implementation of the Concept of Combating Terrorism in Ukraine" in 2021, etc.

The provisions on countering HT are contained in the laws of Ukraine "On the Basic Principles of Cybersecurity of Ukraine" and "On the Foundations of National Resistance," as well as in long-term planning documents, including the "Strategy of National Security of Ukraine," which is approved by the decree of the President of Ukraine. A system of subordinate acts has been developed regarding countering hybrid and other threats to national security. In particular, these are the acts of the Cabinet of Ministers of Ukraine: "General requirements for cybersecurity of critical infrastructure facilities" in 2019, "Procedure for forming a list of critical information infrastructure objects" in 2020, "Order on approval of the action plan for the implementation of the Concept of Combating Terrorism in Ukraine" in 2021, etc.

At the same time, Ukraine's national legislation in the field of protection against hybrid threats has significant shortcomings, among which their declarative nature and the lack of specific mechanisms of public control deserve mention. Forms and mechanisms of interaction between the state and the private sector remain practically undisclosed in Ukrainian legislation.

With regard to pan-European legislation, the definition of hybrid warfare is currently provided at the level of the European External Action Service position. Thus, the European External Action Service defines hybrid campaigns as multidimensional, combining coercive and subversive measures, using both conventional and non-traditional tools and tactics. They are designed to be difficult to detect or attribute. These threats are aimed at critical vulnerabilities and seek to create confusion and hinder rapid and effective decision-making.

Article 42.7 of the EU Treaty contains provisions on mutual assistance in case of armed aggression, although to date this article has never been activated. However, the threshold for providing assistance is armed aggression, which means that HT are easily immune to this provision. Nevertheless, among the instruments at the EU's disposal in the event of a threat, particular attention should be paid to the solidarity clause in Article 222 of the Treaty on the Functioning of the EU in the event of natural or man-made disasters or terrorist attacks.

Thus, in terms of the tools available to counter hybrid warfare, it should be recognized that the EU is better equipped than other regions of the world to combat certain types of attacks. First, the EU has regulatory tools against disinformation; second, it has common trade policy regulations to overcome trade defense; third, the EU has tools to combat hostile foreign investments; fourth, it also has tools to combat cybercrime; and finally, there is Frontex, an EU agency responsible, among other things, for countering border pressure.

At the same time, it is necessary to take into account that hybrid warfare often circumvents legal boundaries and thus impedes or at least hinders the application of any mutual assistance clauses. In particular, such clauses as those established in Article 222 of the Treaty on the Functioning of the EU and Article 42 of the Treaty on European Union. HT are becoming increasingly sophisticated each year. Hybrid strategies typically do not reach the level of intensity that allows the victim state to first detect it and then intervene. Rather, they create a gray zone that is neither war nor peace.

Countries of the EU, like Ukraine, must be able to respond to and counter HT through proportional countermeasures. However, the response of the victim state to hybrid threats will be limited by international law, especially international human rights law. Depending on the type of threat, other international legal norms may apply, such as maritime, air, border, or refugee law, or treaties on terrorism. Unfortunately, there are serious difficulties in harmonizing human rights law with measures taken by victim states in response to hybrid threats. These measures, in turn, may violate human rights, for example, during the implementation of anti-terrorism legislation, Internet restriction legislation, media regulation, or changes to migration law. Thus, according to Article 8-11 of the European Convention on Human Rights, responses to HT must be established "by law, pursue a legitimate aim, and be necessary in a democratic society." However, in the case of large-scale HT, European states can always rely on Article 17 of the ECHR to their advantage. Similarly, in the event of a national

emergency, Article 15 of this Convention allows participating states to suspend their obligations under the ECHR, except for the right to life, prohibition of torture, slavery, death penalty, and double jeopardy, as well as the principle of "nulla poena sine lege" ("no crime without law").

Therefore, there are no alternatives to combating HT outside international law. Thus, international institutions, including the Council of Europe and the EU, are obliged to adapt their structures and procedures to address this new tactic in order to enhance their resilience.

A problematic aspect of EU legislation is that it sets extremely stringent conditions for attributing a specific act committed by an individual or group to HT. These conditions require the presence of multiple elements that are often difficult to prove. This is why operations in the gray zone often bring light rewards to those who use such strategies, and containment of HT often does not work. It is important to expose and identify the aggressor state that creates HT, despite it being a challenging task. If the aggressor falls under international law, the rules of international responsibility will naturally apply. A particular mention should be made of the provisions of the Articles on the Responsibility of States for International Wrongful Acts of 2001 and the Articles on the Responsibility of International Organizations of 2011, prepared by the International Law Commission (International Law Commission at its fifty-third session, 2001; International Law Commission at its sixty-third session, 2011). Although they have not entered into force, part of their content reflects customary law. However, it is important to recognize that these texts only consider the international responsibility of two established subjects of international law, namely states and international organizations. To hold the aggressor accountable, it must be determined who had control over the operation or who sponsored the aggressors. Unfortunately, the International Law Commission does not consider the international responsibility of non-state actors in the drafts of these two texts. If the responsibility of a non-state hybrid threat actor is established, the general course of action is to apply the national criminal law of the victim state.

However, it is important to recognize that these texts only consider the international responsibility of two established subjects of international law, namely states and international organizations. To hold the aggressor accountable, it must be determined who had control over the operation or who sponsored the aggressors. Unfortunately, the International Law Commission does not consider the international responsibility of non-state actors in the drafts of these two texts. If the responsibility of a non-state actor for a hybrid threat is proven, the general rule is the application of the national criminal law of the victim state.

The main provisions of the mentioned acts stipulate that for an action or inaction of a state to be considered internationally wrongful, two conditions must be met. Firstly, the action or inaction must be attributable to the state under international law, and secondly, this state must have breached an international obligation. The articles on state responsibility also consider the conduct of a person or legal entity that is not a government body but is "empowered by the law of that State to exercise elements of the governmental authority" and is "acting in that capacity in the particular instance" (Article 5). Additionally, the articles state that the conduct of government bodies, persons or entities authorized to exercise governmental functions should be considered an act of the state, even if they exceed their authority or contravene instructions (Article 7).

Similarly, the conduct of an individual or group of individuals shall be considered an act of the state whenever they act on the instructions of the state or are under the direction or control of the state in carrying out the conduct (Article 8). Likewise, "The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact exercising elements of the governmental authority in the absence or default of the official authorities and in circumstances such as to call for the exercise of those elements of authority." (Article 9). Article 11 is a concluding provision according to which any conduct that does not fall under the state according to the previous provisions will still be attributed to that state if it adopts and acknowledges this conduct as its own.

Consequently, EU countries, as well as Ukraine, must have the ability to respond to and counter HT through proportional legal countermeasures. Depending on the type of threat, both international legal norms, regional legislative acts, and provisions of national criminal codes may apply. It is important to harmonize human rights legislation with measures taken by victim states in response to hybrid threats.

Discussion

The opinion regarding the joint search for effective legal mechanisms to counter hybrid threats, expressed in our study, is not unique in scientific circles (Sanz Caballero, 2023). However, such conclusions regarding the alignment of Ukraine's legal system with pan-European standards have not been previously articulated in scientific literature.

The view expressed in our study regarding the normative uncertainty (Sanz Caballero, 2023) and the complex nature of hybrid threats (Galan, 2018; Lahmann, 2022) is shared in the academic literature. The exhaustive list of hybrid threats includes cyber-attacks, terrorism, organized crime, drug trafficking, migration flows, economic or financial warfare, exploitation of mass media, and the use of covert psychological operations. The most updated catalogs of hybrid threats

intertwine numerous political, economic, technical, social, informational, legal, diplomatic, scientific, and military risks (Galan, 2018). Hybrid threats may also include manipulation of the law and abuse of legal procedures (Lahmann, 2022). Some of the recent observed hybrid threats likely occurred in Ukraine after the Russian invasion and even prior to it during the annexation of Crimea in 2014. Indeed, this conflict involves modern tactics of propaganda dissemination, kinetic attacks, and espionage (Kong & Marler, 2022).

In our study, we did not classify HT. However, considering current and future forms of threats, researchers classify them into three types: military threats (both armed and unarmed), non-military threats, and hybrid threats. In this context, "hybrid" relates to hybrid attacks, hybrid wars, hybrid warfare, and hybrid threats i.e. conflicts in which all involved parties combine conventional and irregular approaches (Karim et al., 2023). HT comprise various forms of warfare, including various methods such as conventional means, irregular tactics and formations, indiscriminate violence, and coercion through terrorism and criminal actions. Various actors, including states and non-state actors, can be involved in hybrid wars (Firmansyah et al., 2022). These threats encompass diverse and multimodal forms with low intensity, affecting international peace and security. Among them are cyber warfare, asymmetric conflicts, global terrorism, piracy, transnational organized crime, demographic challenges, resource security, negative consequences of globalization, and proliferation of weapons of mass destruction (Rudi et al., 2020). Therefore, from the aforementioned perspective, "hybrid" pertains to a broad spectrum of threats covering physical (kinetic) and non-physical (non-kinetic) elements, as well as aspects of low intensity. These threats can emanate from both state and non-state actors, employing various tactics, methods, and tools.

In our research, we conclude that hybrid threats often bypass legal boundaries, thereby hindering or at least impeding the application of any mutual assistance provisions at the EU level. At the same time, some researchers go further in their conclusions, noting that today any threat can become a hybrid threat, as the nature of these dangers is that they are always evolving. The only exception to this is perhaps a threat that is part of a declared war, in which case the strategy or action cannot be considered hybrid (Sanz Caballero, 2023). Some researchers conclude that unscrupulous actors, opposing law-abiding states, are always one step ahead and can exploit the situation by manipulating it in unforeseen scenarios. Many of these actors operate under foreign influence, foreign orders, or state sponsorship, although this is not always the case, and sometimes they act alone (Sanz Caballero, 2023).

In our research, we expressed the opinion regarding the vulnerability of democratic regimes to hybrid threats. Similar views were expressed in the work of Carment and Belo (2020). Actors using hybrid threats often launch complex information campaigns to discredit law-abiding regimes, undermining their authority and manipulating public opinion in open societies where the flow of information is free. Autocracies, on the other hand, are usually more willing to use hybrid threats and proxies, as they are less constrained by public reaction to their actions. Therefore, authoritarian states better serve the purposes of non-state actors and authoritarian regimes (Carment & Belo, 2020).

A similar position is taken by Gaiser (2019). Hybrid threats are becoming the norm for disrupting society's ability to function. Indeed, law-abiding states are in a disadvantageous position, as they are bound by international law when responding to hybrid threats. As a result, they never fight adversaries on the same terms.

From the works of Šešelgytė and Bladaitė (2021), Kalniete and Pildegovičs (2021), it can be concluded that the falsification of historical memory by the Russian Federation in the Baltic countries has similar features to the situation in Ukraine. Scientists emphasize the effective response of these countries to similar hybrid threats, which was focused on a whole-of-society approach involving the non-governmental, private sectors and academics. This approach stimulated the development of more inclusive policies that met the needs of society and increased national resilience. Therefore, the experience of these countries as full members of the EU may be useful for Ukraine in the context of further reforming the legal framework. Solik and Graf (2023), Stănescu (2023) noted that the Russian Federation's attack on Ukraine significantly changed the geopolitical situation in Moldova, which prompts the government to take decisive action in the field of countering hybrid threats. The main measures to counter such threats include extending the state of emergency in the country, improving security procedures, deepening cooperation with the EU, countering disinformation, and ensuring cybersecurity.

In general, the EU positively assesses Moldova's reforms. At the same time, it is worth noting that the conditions set by the EU for Moldova are less specific than for Ukraine, so the assessment of the country's progress may be more subjective. Solik and Graf (2022) noted the importance of territorial integrity issues in the context of European integration and in the context of hybrid threats. Using the example of Bosnia and Herzegovina, scientists noted that support for individual political leaders from the Russian Federation may threaten territorial division. In Serbia, the main obstacle to joining the EU is the issue of the status of Kosovo. These issues are relevant for Ukraine in the context of its territorial integrity in the context of war.

Overall, the view expressed in our study regarding the imperfect legal definition and mechanisms to counter HT is shared in the academic literature.

The main theoretical limitation of the study is the uncertainty regarding the interpretation of hybrid threats, which complicates the analysis of their impact in different contexts and states. Among the methodological limitations, it is worth noting the predominant use of a legal and regulatory approach, which may limit the understanding of the practical application of the acts under consideration. Further studies should include more ephemeral data to obtain more representative results.

CONCLUSIONS

Thus, Ukraine has made significant efforts to bring its legal system in line with European standards, creation of the state image of an independent state striving for integration with the European community. But there is still much work to be done in this direction. Both Ukrainian national legislation and pan-European legislation on countering hybrid threats are currently imperfect. Ukrainian national legislation in the field of protection against HT is characterized by its declarative nature, the lack of specific mechanisms for public control and public involvement in the development and implementation of national security policy. In terms of the tools available to counter HT, the EU is better equipped than other regions of the world to combat certain specific types of attacks. However, hybrid threats often circumvent legal boundaries and thus hinder or at least impede the application of any mutual assistance provisions at the EU level. Therefore, the joint development of effective legal mechanisms against hybrid threats is currently relevant, and these mechanisms should be enshrined at both the EU level and the level of Ukraine, as a candidate for membership.

In developing such mechanisms, we recommend taking into account the provisions of the Articles on the Responsibility of States for International Wrongful Acts of 2001 and the Articles on the Responsibility of International Organizations of 2011, which provide sufficient opportunities to combat state-sponsored hybrid tactics. To improve the legal system reform in the context of Ukraine's integration into the EU in the face of hybrid threats, we also recommend:

- Develop a unified strategy at the EU level to combat HT. Such a strategy should include a clear definition and characteristics of hybrid threats, as well as a comprehensive set of measures to respond to them, both at the level of member states and at the EU level.

- During the reform of Ukraine's national security legislation, bring the provisions on countering HT into line with the unified European strategy mentioned above.

The conclusions formulated in this study can be used in the development of mechanisms to counter hybrid threats. However, two main problems remain: firstly, non-state hybrid threats, and secondly, the issue of identifying hybrid aggressors themselves. These problems are promising areas for further research.

REFERENCES

- Amiruddin, Z. A. (2018). *Introduction to legal research methods*. Rajawali Pers.
- Azimov, K. R. (2023). Harmonization of domestic legislation with international law norms regarding the toolkit of anti-corruption policy. *Proceedings of the VII International Scientific-Practical Conference «Reforming the legal system in the context of Eurointegration processes», Ukraine*, 179–182. <https://essuir.sumdu.edu.ua/handle/123456789/92596>
- Bazarkina, D. (2022). Countermeasures for hybrid threats: The experience of the European Union and its member states. *Herald of the Russian Academy of Sciences*, 92, 315–320. <https://doi.org/10.1134/S1019331622100033>
- Bondarenko, O. S. (2023). Anti-corruption specialization of prosecutor's offices as a factor in countering corruption: the experience of Hungary and Ukraine. *Proceedings of the VII International Scientific-Practical Conference: Reforming the legal system in the context of Eurointegration processes, Ukraine*, 250–255.
- Bulletin of the Verkhovna Rada of Ukraine. (1996, June 28). *Constitution of Ukraine* (Publication No. 254k/96-VR. № 30, art. 141).
- Carment, D., & Belo, D. (2020). Gray-zone conflict management, in European. *Middle Eastern & African Affairs*, 21. https://www.researchgate.net/publication/342078820_Gray-zone_Conflict_Management_Theory_Evidence_and_Challenges
- Firmansyah, F., Hidayat, E. R., & Adnan Madjid, M. (2022). Analysis of the formation of reserve components as an effort to optimize the army's role in national defense (case study: concept of forming a regional military command in the tni ad dimension). *Jurnal Damai dan Resolusi Konflik*, 8(1), 38. <https://jurnalprodi.idu.ac.id/index.php/DRK/article/view/1166>
- Gaiser, L. (2019). NATO-EU Collaboration on hybrid threats. Cooperation out of necessity with potential consequence on international legal framework. *National security and the future*, 20(1–2), 20. <https://doi.org/10.37458/nstf.20.1-2.3>
- Galan, C. (2018). Amenazas híbridas. Nuevas herramientas para viejas aspiraciones. *Elcano Documentos de Trabajo*, 20/2018, 3. http://www.realinstitutoelcano.org/wps/portal/riecano_es/contenido?WCM_GLOBAL_CONTEXT=/elcano/elcano_es/zonas_es/dt20-2018-galan-amenazas-hibridas-nuevas-herramientas-para-viejas-aspiraciones
- Galinek, D., Steingartner, W., & Vinko, Z. (2019). Cyber rapid response team: an option within hybrid threats. *IEEE 15th International Scientific Conference on Informatics*. <https://doi.org/10.1109/Informatics47936.2019.9119292>

- Government Portal. (2023). *Report on the results of the initial assessment of the progress in the implementation of EU legal acts published*. <https://www.kmu.gov.ua/news/opublikovano-zvit-za-rezultatamy-pervynnoi-otsinky-stanu-implementatsii-aktiv-prava-ies>
- Gryshchenko, I., Lazor, O., Oliinyk, V., Lazor, O., & Yunnyk, I. (2023). Strategic public policy providers in the context of European integration. *Amazonia Investiga*, 12(64), 175–187. <https://doi.org/10.34069/AI/2023.64.04.17>
- Grytsenko, A., Borzenko, O., & Burlay, T. (2021). Achievements and challenges of Ukraine's European integration. *Journal of European Economy*, 20, 518–541. <https://doi.org/10.35774/jee2021.03.493>
- Hickman, K., Weissmann, M., Nilsson, N., Bachmann, S.-D., Gunneriusson, H., & Thunholm, P. (2018). Proceedings of the Hybrid Threats and Asymmetric Warfare: What to do? Sweden. https://www.researchgate.net/publication/332224423_Hybrid_Threats_and_Asymmetric_Warfare_What_to_do_Conference_proceeding
- International Law Commission at its fifty-third session. (2001). *Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries 2001*. https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf
- International Law Commission at its sixty-third session. (2011). *Draft articles on the responsibility of international organizations 2011*. https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_11_2011.pdf
- Kalniete, S., & Pildegovičs, T. (2021). Strengthening the EU's resilience to hybrid threats. *European View*, 20(1), 23–33. <https://doi.org/10.1177/17816858211004648>
- Karim, M., Halkis, M., & Kertopati, S. (2023). The implications of legal uncertainty of the provisions on hybrid threats in the Indonesia national defense system. *West Science Law and Human Rights*, 1, 235–246. <https://doi.org/10.58812/wslhr.v1i04.294>
- Kong, W., & Marler, T. (2022). Ukraine's lessons for the future of hybrid warfare. *National Interest*. https://www.researchgate.net/publication/365769414_Ukraine's_Lessons_for_the_Future_of_Hybrid_Warfare
- Kovalchuk, T. I., Korystin, O. Ye., & Svyridyuk, N. P. (2019). Hybrid threats in the civil security sector in Ukraine. *Science and Law Enforcement*, 3, 69–79.
- Kresin, O. (2022). Countering hybrid threats in Ukrainian legislation. *Foreign trade: Economics, Finance, Law*, 120, 4–17. [https://doi.org/10.31617/zt.knute.2022\(120\)01](https://doi.org/10.31617/zt.knute.2022(120)01)
- Lahmann, H. (2022). Infecting the mind: establishing responsibility for transboundary disinformation. *Eur J Int Law*, 33(2), 411–440. <https://doi.org/10.1093/ejil/chac023>
- Lexy, J. (2018). *Moleong, Qualitative research methodology*. PT. Remaja Rosdakarya.
- Lonardo, L. (2021). EU Law against hybrid threats. *A first assessment, in European Papers*, 6, 1075–1096. <https://doi.org/10.15166/2499-8249/514>
- Martyniuk, V. (2018). Hybrid threats in Ukraine and societal security. Experience of the EU and Eastern Partnership.
- Papadimos, T., & Stawicki, S. (2021). Hannah Arendt's prognostication of political animus in America: Social platforms, asymmetric conflict, and an offset strategy. *Open Journal of Philosophy*, 11, 85–103. <https://doi.org/10.4236/ojpp.2021.111008>
- Przeworski, A. (2022). Formal models of authoritarian regimes: a critique. *European Papers*, 6(2). <https://doi.org/10.2139/ssrn.4033720>
- Pyrozhkov, S. I., Bozhok, Ye. V., & Khamitov, N. V. (2021). National resilience of the country: strategy and tactics for countering hybrid threats. *Bulletin of the National Academy of Sciences of Ukraine*, 8, 74–82. <https://doi.org/10.15407/visn2021.08.074>
- Rozmaritsyna, N. (2023). Perspective of Ukraine's integration into the European union: state of development and new challenges. *Journal of Public Administration, Finance and Law*, 28/2023, 399–408. <https://doi.org/10.47743/jopaf-2023-28-31>
- Rudi, S. H., Yusnani Hasyim Zum, S. H., Hum, M., Roro Rukmi, W. P., Kes, M., & Siti Khoiriah, S. H. I. (2020). *Social justice assessment model in the formation of regulations in regional law drafting techniques*. *Aura*. <http://repository.lppm.unila.ac.id/10615/1/Model%20Sosial%20Justice%20Assesment%20Dalam%20Pembentukan%20Peraturan%20di%20Daerah.pdf>
- Sanz Caballero, S. (2023). The concepts and laws applicable to hybrid threats, with a special focus on Europe. *Humanities and Social Sciences Communications*, 10, 360. <https://doi.org/10.1057/s41599-023-01864-y>
- Sari, A. (2019). Legal resilience in an era of grey zone conflicts and hybrid threats. *Exeter Centre for International Law Working Paper Series*, 1(6). <http://dx.doi.org/10.2139/ssrn.3315682>
- Šešelgytė, M., Bladaitė, N. (2021). How to Defend Society? Baltic Responses to Hybrid Threats. In A. M. Brady, & B. Thorhallsson (Eds.), *Small States and the New Security Environment* (pp. 73–86). Springer. https://doi.org/10.1007/978-3-030-51529-4_6
- Shvager, O. A., & Baraniuk, T. M. (2023). *The compliance of the provisions of the new law of Ukraine "On Insurance" with the disclosure of information by insurers to European and international standards*. *Ukraine*, 243–247.
- Solik, M., & Graf, J. (2022). Russia's hybrid threats as the biggest obstacle to the euro integration process in the Western Balkans a case study of Bosnia and Herzegovina and Serbia. In *Annual International Conference on Emerging Ideas* (pp. 38–53). University American College Skopje. <https://doi.org/10.5281/zenodo.7643379>
- Solik, M., & Graf, J. (2023). Russia as a hybrid threat to Moldova in the context of the Russian–Ukrainian war. *International Politics*, 1–27. <https://doi.org/10.1057/s41311-023-00536-7>
- Stănescu, M. (2023). Understanding hybrid threats and their societal impact—Republic of Moldova case study. *Land Forces Academy Review*, 28(4), 255–264. <https://doi.org/10.2478/raft-2023-0030>
- Verkhovna Rada of Ukraine. (2014, September 16). *Association Agreement between Ukraine, of the one part, and the European Union, the European Atomic Energy Community and their Member States* (Publication No. 1678-VII). https://zakon.rada.gov.ua/laws/show/984_011#Text
- Vidnyanskyi, S. (2018). Relations between Ukraine and the European Union after the Orange Revolution: potential and unrealized opportunities. *Geopolitics of Ukraine: history and modernity*, 1(20), 9–24.
- Wijnja, K. (2021). Countering hybrid threats: does strategic culture matter? *Defence Studies*. *Defence Studies*, 22, 1–19. <https://doi.org/10.1080/14702436.2021.1945452>

Contribution of each author to the manuscript:

Task	% of contribution of each author				
	A1	A2	A3	A4	A5
A. theoretical and conceptual foundations and problematization:	20%	20%	20%	20%	20%
B. data research and statistical analysis:	30%	30%	20%	10%	10%
C. elaboration of figures and tables:	10%	10%	10%	40%	30%
D. drafting, reviewing and writing of the text:	50%	20%	10%	10%	10%
E. selection of bibliographical references	10%	40%	30%	10%	10%
F. Other (please indicate)	20%	20%	20%	20%	20%

Indication of conflict of interest:

There is no conflict of interest

Source of funding

There is no source of funding

Acknowledgments

There is no acknowledgment