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## FOOD SECURITY MODERN INTERNATIONAL LAW AND RULE-MAKING PRIORITIES OF UKRAINE

**Abstract.** *The purpose of the article* is to cover both international law and rule-making priorities of Ukraine in regional and national food amidst Sustainable Development Goals and largescale warfare in the territory of Ukraine determining key trends and barriers in exporting domestic agricultural products.

**Research methods.** Ontological research component determined its epistemological approaches to applying a set of relevant methods aimed at providing both analytical and forecasting function of law science, in particular situational analysis, cognitive modelling, trend extrapolation, and scenario building.

**Results.** Despite requirements of the National Security Strategy of Ukraine adopted in 2020, there is still a gap in Ukraine's legislation on food security which shall be eliminated in the period of post-war recovery by adopting a specific legislative act taking into account negative and positive experience accumulated during the war. It is discovered the significance of preferential arrangements introduced with special Regulation of the European Parliament and of the Council on temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under the Association Agreement and argued that Ukraine is interested in complying in good faith with all of its conditions in order not to cause suspending in whole or in part such arrangements until June 5, 2023 which is the term of this legal instrument of European Union secondary legislation validity.

**Conclusions.** Such factors as warfare in the territory of Ukraine and deliberate naval blockade of Ukrainian Black Sea ports breaking the logistic export chains of agricultural products of Ukraine confirmed its important status and role as an integral component within the system of regional and global food security. Tripartite Initiative on the Safe Transportation of Grain and Foodstuffs from Ukrainian Ports is an international law instrument which is extremely necessary for a number of countries in the different regions of the world but, at the same time, it is unreliable from a prognostic standpoint concerning both compliance with the agreements reached by all parties and automagical prolongation under the initially agreed terms.

**Key words:** food security, naval blockade, Black Sea Grain Initiative, European Union legislative support.

### 1. Introduction

Ensuring food security belongs to immanent internal and external functions of states and is the competence of a range of international, global and regional organizations.

Not only for Ukraine but also for many countries – importers of Ukrainian agricultural and food products, the relevant problem has acquired a previously unknown and extreme

severity in a bid to unilaterally change the world order and law enforcement in their interests by bringing the domination of the principle of “the right of force over the force of law”, which seems to sink into oblivion for the whole civilization, back. As for our country, it was manifested in the violation of the fundamental principles of international law, the inadmissibility of using military force, the inviolability of bor-

ders, the imperative of respect for sovereignty and territorial integrity, as well as the laws and customs of war.

One of the most difficult challenges to Ukraine was the deliberate blocking of Black Sea ports, which were the channels for the vast majority of exported Ukrainian products of the agro-industrial complex. It presented a large-scale threat, the essence of which is recognized throughout the world and which was succinctly and deeply formulated by Charles Michel, President of the European Council, in September 2022, namely: “Food security is the major global challenge today” (European Council, Council of the European Union, 2022).

An important component of the general problem is not only the adverse impact on the status of Ukraine as one of the world leaders in exporting certain types of grain and oilseeds (Ukraine’s rating on exports on international markets: sunflower oil – 1<sup>st</sup> place; corn – 3<sup>rd</sup> place, barley – 4<sup>th</sup> place, and wheat – 6<sup>th</sup> place), but the sale of the grown and harvested crops and the receipt of foreign exchange earnings is crucial for the economic interests of Ukraine. The underlying problem touches upon not only legal but also moral aspects: it lies in the deliberate provocation and use of the threat of, if not particularly global, regional famine in countries (e. g., Africa and Asia, which have relied on imports from Ukraine for many years) as a tool of hybrid warfare.

In this context, it is essential to carry out an analytical revision of the “peaceful” legal tools regarding the efficiency of preservation of its regulatory influence on social relations in the field of food security in de-facto war, de-jure – the legal regime of martial law and the temporary occupation of the territories of Ukraine, as well as implementation of the prognostic function of law.

At the same time, the central issue of the research objective is to determine priority international-conventional and rule-making guidelines in regional and national food security in peacetime and under martial law, which define the main trends in the export of competitive domestic products of the agro-industrial complex.

The multifaceted nature of food security necessitates its research in many fields of knowledge by specialists who cover in their scholarly contributions the nature and prerequisites of the social phenomenon (the global problem of starvation and food security), generalize its main features in the relevant definitions, establish the factors of the current state and dynamics of processes in the specific area of national security, the general principles of legislative regulation, etc. The achievement of the above goal is

facilitated by an appeal to the United Nations (hereinafter – UN) analytical and information materials, legislative acts of Ukraine and the European Union (hereinafter – EU), and publications of legal experts, economists, practitioners, namely B. Kormych, T. Averochkina, O. Varaksina, A. Stavnitser, L. Goetza, H. Gretheb, and others.

## 2. Food security international law and legislative priorities

The segment of the Ukrainian legislation, which is intended to ensure food security in peacetime and under martial law, is mainly represented by a subsystem of by-laws. It is worth noting the following in performing a kind of incorporation as one of the forms of systematization of the mentioned acts, which are distinguished and united by a chronological criterion.

One of the strategic goals of our state in ensuring sustainable development on a global scale in general and national security, in particular, is to accomplish food security, which is provided for by the Decree of the President of Ukraine “About the Sustainable Development Goals of Ukraine for the period until 2030” dated September 30, 2019 № 722/2019.

The chronological and global context for adopting the Presidential Decree can be considered the Summit on Sustainable Development, which took place in September 2015 within the framework of the 70<sup>th</sup> session of the UN General Assembly. In the outcome document under the ambitious title “Transforming our world: the 2030 agenda for sustainable development”, 17 Sustainable Development Goals were approved. In order to establish the strategic boundaries of the national development of Ukraine for the period until 2030 according to the principle of “Leaving no one behind”, an inclusive process of adjusting the specified global Goals was initiated (United Nations, 2015–2022).

As emphasized in the UN information analysis materials, to feed people going hungry, whose number now stands at 795 million and will increase by 2 billion in 2050, there is a need for significant changes in the global food and agricultural system (United Nations, 2015). Specifying the above general principles at the sub-legislative level, the Decree of the President of Ukraine dated “National priorities in the transformation of food systems in Ukraine” February 7, 2022 № 41/2022 was adopted. Under its provisions, such national priorities cover four areas, which are not exhaustive: 1) healthy nutrition; 2) eco-friendly production; 3) resistance to market instability; 4) food availability for all groups of the population.

Turning from the general to the particular, we note that under the National Security Strategy of Ukraine approved by another

Decree of the President of Ukraine, namely “On the Decision of the National Security and Defense Council of Ukraine dated September 14, 2020 № 392/2020, the ways and tools for its implementation should be available in some documents in relevant specific areas, including the Food Security Strategy.

Given the close correlation of food security issues with such integral components of national security as economic and environmental security, it is worth mentioning that Ukraine currently has the Economic Security Strategy for the period up to 2025 and the Environmental Security and Climate Adaptation Strategy until 2030 approved by the National Security and Defense Council of Ukraine.

Moreover, as of the date of article completion, there is no Food Security Strategy approved in laws or by-laws, although there was an attempt in 2011 to adopt the Law of Ukraine “On the Fundamentals of Food Security”, which did produce a beneficial effect in policy-making activities.

A month after the beginning of the war, it was adopted the Law of Ukraine (Verkhovna Rada of Ukraine, 2022) which directly concerns food security in terms of land relations, while a good deal of topical issues regarding rent, emphyteusis, superficies, land easement, and other aspects drive the practicability of considering the specific issue in an individual scholarly article.

In this context, it is remarkable that in 2020, a draft ordinance of the Cabinet of Ministers of Ukraine “On the Approval of the Food Security Strategy for the Period up to 2030” was formulated, and, as experts emphasize, the Government of Ukraine “failed” to implement the strategy (Hot Agricultural Policy, 2022).

Having studied the main aspects and factors shaping national food security, O. Varaksina rightly recognizes foreign trade as one of the basic aspects in their system. It renders the interrelation between the world and domestic agricultural markets, which is characterized by indicators of the volume of imports and exports of each product; balances of imports and exports of agricultural products and food; prices for different agricultural products and food of domestic and foreign production, the ratio of their level on the domestic and world markets; variables of the situation in foreign markets for agricultural products and food, etc. (Varaksina, 2013, p. 72).

Returning the logic of material presentation from local to global, one more Presidential Decree deserves attention which experts sometimes omit. The point at issue is the Decree of the President of Ukraine “On the Decision of the National Security and Defense Council

of Ukraine dated July 30, 2021 “On the Strategy of Foreign Policy Activity of Ukraine” dated August 26, 2021 № 448/2021, which reasonably specifies the global factors determining the status of our state in the food security sector. Thus, clause 14 of the Decree carefully states that the role of Ukraine in overcoming challenges to food security is increasing. There are prerequisites for the recognition of Ukraine as a guarantor of food security in the context of, firstly, the COVID-19 spread and, secondly, the global economic recession, which, by the way, is very likely to translate into a new global financial and economic crisis. Given such challenges, it is quite logical to designate, following clause 14 of the Decree, a boost in exports of domestic agricultural products with a high degree of raw materials processing as one of the priority areas of expanding Ukraine’s participation in ensuring not just food security but the “global” one, which can and must be implemented by strengthening of our state’s position in world food markets.

### 3. Ukrainian Food Export Trends and Legal Restrictions

As noted in the National Report of the National Institute for Strategic Studies: Ukrainian agricultural products are in repute in almost 200 countries of the world, and the agro-industrial complex of Ukraine is now the guide link in the national economy, which largely determines social and economic development, forming 14% of the gross value added and more than 40% of the country’s exports. The agricultural sector is currently almost the only locomotive of the Ukrainian economy (National Institute for Strategic Studies, 2022).

In our opinion, it is a good thing that the domestic economy has that sort of “locomotive”. The only question is whether it – the so-called optimistic statement of the National Report – captures an externally programmed focus on the irreversible deindustrialization of Ukraine in the future vector of its economy. The implementation of the above hypothesis will mean the direction of Ukraine’s “development” towards not a post-industrial society dominated by the tertiary sector with an option of allocating a quaternary IT sector, together with civilized countries that have chosen an innovative and technological development model, but a return to its agrarian past.

International organizations, agreements of which relate to international economic law, have a significant regulatory impact on relations in the field of global food security.

The general orientation of the WTO multilateral agreements on the liberalization of international trade does not exclude the sovereign

right of the member states of the international economic organization to introduce export restrictions, including for food products. Such legal restrictions will be recognized as lawful and, at the same time, somewhat legitimate due to the refusal of some states, primarily recipients of such goods, which are dependent on their import at the global or regional level.

The COVID-19 pandemic exacerbated the problem under consideration, and concurrently, at the end of 2020, there was not reached consensus on its international-legal solution within the WTO framework. In January 2021, the situational deadlock was overcome through global humanitarian responsibility in the form of a Joint Statement. The document without international treaty obligations, which will be highly likely implemented by WTO member states, provides for the voluntary non-application of restrictions or prohibitions on exporting food products if they are purchased for non-commercial humanitarian purposes under the United Nations Food World Programme, the world's largest humanitarian organization.

The accession of Ukraine to that consolidated position of the states was justified enough in peacetime. At the same time, the war is a process-trigger, which not only can but must adjust the priorities and legislative principles of state policy on global food security and, first of all, the food security of Ukraine. In this context, the adoption of the Order of the Cabinet of Ministers of Ukraine "On approval of a plan of measures to ensure food security under martial law" of April 29, 2022 № 327-p deserves support.

One of the main tasks within the mentioned action plan, under its para. 7, is to fill the domestic market with goods of own production and maintain export demand, the implementation of which involves the regulation of agricultural exports in general and the approval of the list of goods whose exports are subject to quotas and licensing in particular.

When implementing the Government's order, measures to limit the export of buckwheat, oats, and rye, which are critical for the stable functioning of the baking industry, should be recognized as justified. In addition, export licensing was introduced for wheat and sugar and, concurrently, there is no need to urgently introduce non-tariff measures to prohibit or restrict the export of agricultural products, harvest and availability of which on the domestic market of Ukraine cause their excess that concerns, first of all, sunflower oil and corn.

Hypothetically speaking, a representative of the business community rather than the scientific one A. Stavnitser – a capital interest holder in TIS, the leading private stevedore

in Ukraine which owns the largest domestic terminal "TIS-Grain" – pragmatically emphasized on the eve of the war, in January 2022, that Ukraine is a key player in the global food security system. Many grain shipments are tied to Black Sea ports, where military operations literally threaten food shortages to many millions of people around the world (Stavnitser, 2022). Thus, as stated in the review of food security and policy: "Only two decades ago Ukraine's grain exports were equivalent to feeding 40 mln people, and already more than 400 mln today" (Kyiv School of Economics, 2022).

Just a month later, the hypothetical model became a reality, and an extremely negative scenario was realized for the all-out military blockade of the Ukrainian Black Sea ports. It draws attention to the fact that in the modern world, which is significantly institutionalized and should rely on the principles and norms of international law, primarily humanitarian and maritime, there was a lack of international entities which could stem the tide of the specific scenario in the next five months before concluding the international grain agreement in Turkey.

#### 4. Black Sea Grain Initiative and Law Forecasting

Only on July 22, an international agreement concluded in Istanbul, the essence of which is absolutely clear following its name "Initiative on the Safe Transportation of Grain and Foodstuffs from Ukrainian Ports", were signed by Ukraine, Turkey and the United Nations (hereinafter – Initiative).

Pursuant to section "C" of the Initiative, "the parties have agreed that any attacks will not be carried out on merchant ships or port infrastructure". At the same time, on the next day, July 23, missile strikes were launched at the port of Odesa – one of the three ports that shall be "untouchable" under para. 3 of the Initiative. Russia's violation of the newly adopted international treaty obligations caused a negative response, in particular, in European countries – France, Austria, and Switzerland (Yevropeyski krainy vyslovylysia shchodo rosiiskoi ataky portu Odesy, 2022). Therefore, the textbook conclusion of Otto von Bismarck expressed almost 100 years ago in the context of Russia's violation of the peace and border treaty with Georgia "No treaty with Russia is worth the paper on which it is written" remains relevant to this day.

Despite all the actual military risks and threats, according to the Ministry of Infrastructure of Ukraine, as of September 20, 2022, more than 4 million tons of grain were exported from the three main ports: Odesa, Chornomorsk, and Pivdenny (Ministry of Infrastructure of Ukraine, 2022). The figure increased

to 6 million tons in October. As for the volume of exports, it can be said that it is better than nothing; nevertheless, it is distinctly different from peacetime, when 90% of Ukrainian exports were conducted through Black Sea ports.

The initiative is not indefinite, so it is crucial to predict its continuation in the short term. This is a difficult task in the methodological and applied aspects, since, as rightly stated in the UN information and analytical materials on the Black Sea grain initiative, “there is no clarity about the end of the war, the future remains uncertain” (United Nations, 2022).

A methodological hypothesis, which will be further confirmed or refuted, is the opportunity to consider the above prognostic task through the prism of the system of methods of analysis, modeling, and forecasting. As it was already mentioned, the most effective ones in terms of the research purpose are systemic and situation analysis, cognitive modeling, trend extrapolation, and scenario forecasting. Without delving into the theoretical and methodological fundamentals of the above methods and the peculiarities of their use in applied legal research, we will present only the key results obtained and substantiated as a result of the integrated application of their elements.

From the perspective of the legal fact of the conclusion of the tripartite Initiative, it is crucial to identify the factors that led to the splitting of Russia’s internal volition and external will, which caused the Initiative’s conclusion and determine the nature of their mutual influence.

It is seen that under object-oriented cognitive analysis, such factors as the threat of global and regional hunger in Asia, Africa, and the Middle East – importers of Ukrainian agricultural products, on the one hand, and the willingness to block exports through the Black Sea ports of Ukraine, on the other, are in a direct link of causality, not weakening but strengthening. It means that the higher the likelihood of famine, the better for Russia that boosted its readiness for further blocking. Consequently, such human-centric factors as threats of restricting both physical and economic access to Ukrainian food in many countries in different regions of the world due to the provoked price advance on international markets, in particular for wheat, could not significantly influence Russia’s intentions to conclude an international agreement on the grain initiative.

The development of another type of cognitive map, i. e., subject-oriented, makes it advisable to make a conceptual notice. It can be reasonably assumed that the geopolitical decision to activate the plan for the military takeover of Ukraine for the sake of further global changes

in the world order relies on a good part of irrational things, the coverage of which goes beyond the limits of legal research. One of the motivations for Russia’s contractual capacity in July 2022, which is based on the ratio principles, could be an effort to weaken the restrictive influence of international sanctions and advance in the volume of exports of Russian grain and fertilizers to the world food market. In addition, it is worth mentioning that no condition in the Initiative’s text would legally fix the correlation between Ukrainian and Russian export of grain and fertilizers.

Therefore, Russia’s interests derive from military goals, which can be described through the conceptual prism of geo-economic wars. Since Ukraine and Russia are competitors in the global and regional markets, primarily grain, blocking Ukrainian ports via military means provides the latter with economic benefits in obtaining larger volumes of export foreign exchange earnings.

One should pay attention that Russia’s volition and implied expression of will have been and will remain focused on the maximum possible blockade of the Black Sea ports of Ukraine. At the same time, it can be recognized as a minimum task since its strategic geo-economic goals highly likely involve the complete deprivation of Ukraine of maritime state status driven by the blocking of its access to the Black and Azov Seas by military means – the creation of the so-called Novorossiia. The only obstacle at the current historical stage of accomplishing these goals is the lack of resources in Russia – military, diplomatic, financial, and information. Assuming that Russia’s characteristic tactics are to try to exploit energy and humanitarian problems, particularly cold and famine – such a threat to Ukraine and the importing countries of Asia, Africa, and the Middle East will be real-life, permanent, and strategic.

Within the framework of cognitive analysis, it is also essential to mark that, along with the factor of states – apologists for European integration – a factor of international organizations, where the decorative and symbolic role of the UN Secretary-General declaratively mentioned in para. 1 of the Initiative is hardly worth taking into account, turned out to be almost insignificant. The before mentioned indicates a profound crisis of the institutional component of the international security system, the subjects of which were unable to influence Russia in the context of the joint provision of global food security based on international humanitarian law.

Given the importance of the subjective factor in initiating the blocking of ports, there remains an extremely high level of risks not only of main-

taining constant tension around the implementation of the Black Sea grain initiative but also of its termination. To prove the general thesis and the high probability of Russia's withdrawal from the agreement, we can cite the position of the Permanent Representative of Russia to the UN and other international organizations in Geneva, who stressed that a letter was sent to the UN Secretary-General with complaints about obstacles to the export of Russian grain and fertilizers and the relevant requirements (Farge, 2022).

The above shows that the future fate of the Initiative will be determined in a variable field of alternative scenarios upon which Russia's "quit" will represent an extremely adverse scenario for Ukraine and importing countries; moreover, it may be legal and rely on the Initiative's norms. Within the theoretical and methodological tools of modern forecasting, there are various conceptual approaches and methods for constructing search and normative scenarios. However, in the context of the Initiative, it is unlikely that there is a need to construct abstract scenario models. The rational limits of constructing alternative scenarios, which are exhaustive, are determined by the norms of the Initiative – there are three alternatives. Therefore, the positive scenario provides for the automatic prolongation of the Initiative for the next 120 days, the negative – the notification of termination of the Agreement by at least one of the parties, and the "compromise" – the articulated intention of one of the parties to discuss amendments to the terms of the Initiative.

Despite complaints of sanctions pressure, it is essential to mark that the European Union has officially consolidated its position on avoiding any measures that can lead to global food insecurity. This general rule means that no regulatory and legal restrictive measures against Russia are applicable amidst international trade in agricultural and food products, including grain and fertilizers (European Council, 2022).

Determining the level of probability of implementation of each of the three possible scenarios, we assume that the least likely is the above favorable scenario. In turn, it is likely that there could be a "compromise" scenario, negotiations on which Russia could theoretically initiate in accordance with clause "H" to amended the Initiative's conditions in its favor under the threat of starvation in many countries due to the termination of the Initiative. In practical terms, the most likely there will be a negative scenario for the implementation of which any reason, even artificial like "illegal actions of Ukraine", will be found.

In general, such tactics and strategy are quite typical for the state concerned which, as

domestic legal scholars B. Kormych & T. Averochkina emphasize: "has continued the practice of neglecting or specifically interpreting the norms of international humanitarian law applicable to armed conflicts at sea" (Kormych. Averochkina, 2022, p. 24). At the same time, the prognostic assessment of the colleagues from Odesa, which covers both the war period and the post-war recovery of Ukraine, is valid and lies in the fact that "Given the Russian navy's command of the sea, the unblocking of Ukrainian ports before the end of hostilities looks unlikely. Moreover, the threat of floating mines could delay the start of shipping for an even more extended period" (Kormych. Averochkina, 2022, p. 25).

The ultimate devaluation of the role of international organizations is prevented by the European Union, which takes legal and logistical measures to promote Ukrainian exports by land.

##### **5. EU Legislative and logistic support of Ukraine**

Amidst blocking Ukrainian exports by sea, the European Union provided both logistical and legal assistance. Thus, as of September 2022, the EU and its member states have optimized the land routes of Ukrainian exports, primarily by rail, which export more than 60% of agricultural and food products.

In addition, such an act of subsidiary legislation and an instrument of unification within EU *acquis* as the Regulation (EU) 2022/870 of the European Parliament and of the Council of 30 May 2022 on temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under the Association Agreement (European Parliament, European Council, 2022), which may remain valid until June 5, 2023, deserves attention in the legal aspect.

As emphasized by the Ministry of Economy of Ukraine: "The Regulation was developed in response to Ukraine's request to facilitate export conditions in wartime as much as possible to deepen trade relations with the EU and continue exports to other countries" (Ministry of Economy of Ukraine, 2022).

The Regulation contains a set of norms aimed at liberalizing international trade, among which the problems of legal support for food and foreign economic security are such that they provide for suspension: firstly, the application of the system of input prices for fruits and vegetables, and secondly, all quotas for agricultural products that allows imports to the EU without any duties.

The system of input prices was introduced in the EU a long time ago. Its essence, as European experts say, is to limit the import of certain food products at a price below a predetermined

one since the EU protects those agricultural producers who grow 15 types of fresh fruits and vegetables from international competition (Goetza, Gretheb, 2009).

Such provisional measures at the level of the EU act should be considered in the broader context of the provisions of Title IV “Trade and Trade-related Matters” of the Association Agreement on the legal regime for the functioning of the Deep and Comprehensive Free Trade Area in general and Annex I-A “Abolition of Duties” in particular.

The direct link between the liberalization of importing Ukrainian food products into the EU single market and the baseless use of military force against Ukraine does not mean that the period of such trade liberalization will be directly related, including the end of the war. Indeed, according to Art. 4 of the Regulation on the safeguard clause, the EU reserved the right to restore at any time the customs duties provided for in the Association Agreement, in the event that imported products originating in Ukraine cause damage or threaten the performance of European producers of similar or competing products.

#### 6. Conclusions

The above allows the formulation of the main conclusions in the legal and institutional realm.

Proper legal regulation of social relations in food safety requires systematic improvement of private-law and public-law instruments. In wartime, the parity application of both components is a priori impossible since the dominant idea objectively shifts towards the public field, first of all, international law – humanitarian, maritime, economic, etc.

In turn, under such conditions, the role of entities of private law relations with a foreign element in general and exporters and importers, in particular, is also significantly inferior to priorities of the role of entities of public international law, primarily states that acquire the status of regional leaders. It refers to Turkey, the resource potential and state will of which proved capable of contributing to maintaining regional and global food security and “voluntarily” engaging Russia in implementing the Black Sea Grain Initiative.

Focusing exclusively on the specifics of the legal regulation of food security would be a methodologically vulnerable approach devoid of an appropriate level of consistency and complexity, because it should be considered in close correlation with other integral areas of national security. At the same time, the problems of scientific development of mechanisms for the legal regulation of food security can not only be identified as a separate equal subject of research but also analyzed through the analytical prism

of the subordination ratio, where food security is recognized as an integral part of the economic or environmental security of Ukraine.

Regardless of the chosen conceptual-legal approach, scientific research in the areas concerned will preserve the organic connection and strategic importance under the legal regime of martial law and in the post-war period of Ukraine’s reconstruction.

In the system of legal documents that shall be adopted in Ukraine in order to specify and implement the provisions of the National Security Strategy, there is still a gap in the missing Food Security Strategy, which can be regarded balanced without excessive demagogic criticism. In general, the issue of food security has not ignored by the Head of State and executive authorities that leads to the improvement of Ukrainian legislation at the level of by-laws in the context of global sustainable development goals. The Food Security Strategy, developed but not approved in peacetime by the Cabinet of Ministers of Ukraine, is highly likely to be adopted and implemented during the post-war reconstruction of Ukraine, taking into account the positive and negative experience forcedly gained by the state, subjects of the agro-industrial complex, and other subjects of the export chain, including Black Sea ports, as well as citizens of Ukraine during de-facto war, de-jure – the legal regime of martial law.

In such a general and local socially significant dimension, it is crucial for society to intensify expert and legal activities to assist state authorities in the rule-making process on the part of the specialized establishments (institutions) of the National Academy of Sciences of Ukraine and the National Academy of Legal Sciences of Ukraine. At the same time, several alternative models that can provide synergy of intellectual potentials of the relevant units of the national academies are considered effective. Thus, it is quite expedient to establish an inter-academic Center for Problems of Legal Support of National Security or an inter-structural Center with a similar name and competence within National Academy of Legal Sciences of Ukraine with the leading participation of the *State Scientific Institution “Institute of Information, Security and Law of the National Academy of Legal Sciences of Ukraine”*. In turn, Academician F. H. Burchak Scientific Research Institute of Private Law and Entrepreneurship of the National Academy of Legal Sciences of Ukraine, which the article’s authors have the honor to represent, is about to take part in the implementation of alternative models of scientific and expert activity and take on the mission and responsibility for the elaborating scholarly problems of improving legal

support in priority areas of national food security of Ukraine in terms of its private law spectrum with the appropriate assistance of the *State Scientific Institution "Institute of Information, Security and Law of the National Academy of Legal Sciences of Ukraine"*.

Along with the international-legal and institutional components, the formation of state policy on national security in terms of food security, the very problem presentation necessitates the implementation of multidisciplinary research with the application of modern methodology of Future Studies, in particular, foresight. Such a paradigmatic approach will create favorable conditions for the implementation of not only the diagnostic and analytical function of law, which is characteristic of domestic scientific-legal research in various specialties, but also the prognostic function of law, which is a promising vector of scientific support of the state both in theoretical-methodological and applied realms.

The implementation of the predictive function of law allows shaping a proactive vision of the future regarding the prospects for keeping the international Agreement on the Black Sea Grain Initiative and the EU regulation on the liberalization of imports of food products originating from Ukraine to the single market, which are important for the export of Ukrainian agricultural and food products to preserve regional food security.

A positive scenario for Ukraine and the countries of Asia and Africa, which depend on Ukrainian imports, in the form of automatic prolongation of the Agreement for the next 120 days is assessed as the least likely.

Consequently, Ukraine and its international partners will have to fight for the preservation of the Agreement, the termination of which is more likely. An acceptable alternative would involve keeping the Agreement in force through additional negotiations and amending, which is one of the three scenarios, conditionally – “compromise”, provided directly by the norms of the Agreement; the likelihood of its implementation is actual, but, it is less than in the negative scenario.

Liberalization of the legal regime in the form of duty-free import of products of the domestic agro-industrial complex to the single EU market within the deep and comprehensive free trade zone provided for by the Association Agreement is dependent on Ukraine's compliance with a set of conditions-requirements recorded in the relevant act of subsidiary EU legislation. The critical importance of that legal assistance from the EU makes it possible to predict that Ukraine will most conscientiously comply with all the conditions provided for in the relevant regulation, which will allow maintaining a favorable regime for domestic imports in accordance with the norms of the regulation, at least until the beginning of June 2023.

Along with the need to improve the legal regime to increase the level of realization of Ukraine's export potential for global and regional food security, the import component of foreign economic activity, which concerns the problem of food independence or import independence of Ukraine, is crucial for Ukraine that deserves further research and presentation of its outcomes in the following scholarly article.

#### References:

**European Council** (2022). Council Regulation (EU) 2022/1269 of 21 July 2022 amending Regulation (EU) № 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine. *Official Journal of the European Union*, L 193/5, vol. 65. Retrieved from: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2022:193:FULL&from=EN> [in English].

**European Council, Council of the European Union** (2022). What is the EU doing to address the food crisis? European Council President Charles Michel at the Global Food Security Summit, September 2022. Retrieved from: <https://www.consilium.europa.eu/en/policies/food-security-and-affordability/> [in English].

**European Parliament, European Council** (2022). Regulation (EU) 2022/870 of the European Parliament and of the Council of 30 May 2022 on temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part. *Official Journal of the European Union*, L 152/103. Retrieved from: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L\\_.2022.152.01.0103.01.ENG&toc=OJ%3AL%3A2022%3A152%3ATOC](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.152.01.0103.01.ENG&toc=OJ%3AL%3A2022%3A152%3ATOC) [in English].

**Farge, E.** (2022). Exclusive: Russia is prepared to quit Black Sea grains deal, writes to UN with demands. *Reuters*, October 13. Retrieved from: <https://www.reuters.com/markets/commodities/exclusive-russia-is-prepared-quit-black-sea-grains-deal-writes-un-with-demands-2022-10-13/> [in English].

**Goetza, L., Gretheb, H.** (2009). The EU entry price system for fresh fruits and vegetables – Paper tiger or powerful market barrier? *Food Policy*, vol. 34, iss. 1, pp. 81–93. DOI: <https://doi.org/10.1016/j.foodpol.2008.06.005> [in English].

**Hot Agricultural Policy** (2022). Uriad provalyv realizatsiiu Stratehii prodovolchoi bezpeky Ukrainy – ekspert [The government failed to implement the Food Security Strategy of Ukraine – expert]. *AgroPolit.com*,

January 29. Retrieved from: <https://agropolit.com/news/23106-uryad-provaliv-realizatsiyu-strategiyu-prodovolchoyi-bezpeki-ukrayini--ekspert> [in Ukrainian].

**Kormych, B., Averochkina, T.** (2022). Ukrainian Maritime Industry under Fire: Consequences of Russian Invasion. *Lex Portus*, vol. 8, iss. 2, pp. 7–32. DOI: <https://doi.org/10.26886/2524-101X.8.2.2022.1> [in English].

**Kyiv School of Economics** (2022). Food Security and Agricultural Policy Review. Retrieved from: <https://kse.ua/food-security-and-agricultural-policy-review/> [in English].

**Ministry of Economy of Ukraine** (2022). Do uvahy eksporteriv : z 4 chervnia 2022 roku u torhivli mizh Ukrainoiu ta YeS zastosovuiutsia umovy, peredbacheni Rehlamentom Yevropeiskoho Parlamentu ta Rady № 2022/870 vid 30 travnia 2022 roku pro tymchasovu liberalizatsiiu torhivli, yaka dopovniuiue torhovi postupky, shcho zastosovuiutsia do ukrainskoi produktsii vidpovidno do Uhody pro asotsiatsiiu [To the attention of exporters: from June 4, 2022, trade between Ukraine and the EU will be subject to the conditions stipulated by the Regulation of the European Parliament and the Council № 2022/870 of May 30, 2022 on the temporary liberalization of trade, which supplements the trade concessions applied to Ukrainian products in accordance with Association Agreements]. *Ministry of Economy of Ukraine: website*, June 8. Retrieved from: <https://www.me.gov.ua/Documents/Print?lang=uk-UA&id=351bbe54-d274-4a71-9141-58023629451c> [in Ukrainian].

**Ministry of Infrastructure of Ukraine** (2022). “Zernova initsiatyva”: eksportovano uzhe ponad 4 mln tonn zernovykh [“Grain initiative”: more than 4 million tons of grain have already been exported]. *Ministry of Development of Communities, Territories and Infrastructure of Ukraine: website*, September 20. Retrieved from: <https://mtu.gov.ua/news/33717.html> [in Ukrainian].

n. a. (2022). Yevropeiski krainy vyslovylysia shchodo rosiiskoi ataky portu Odesy [European countries expressed their views on the Russian attack on the port of Odesa]. *Izbirkom*, July 24. Retrieved from: <https://izbirkom.org.ua/news/politika-8/2022/yevropejski-krayini-vislovilysya-shodo-rosijskoyi-ataki-portu-odesi/> [in Ukrainian].

**National Institute for Strategic Studies** (2022). Ukraina ta hlobalna prodovolcha bezpeka v umovakh viiny [Ukraine and global food security in wartime]. *The official website of the National Institute for Strategic Studies*, March 14. Retrieved from: <https://niss.gov.ua/news/komentari-ekspertiv/ukrayina-ta-hlobalna-prodovolcha-bezpeka-v-umovakh-viiny> [in Ukrainian].

**Stavnitser, A.** (2022). Svit zahrozuie prodovolcha kryza cherez viinu v Ukraini [The world is threatened by a food crisis due to the war in Ukraine]. *AgroPolit.com*, January 26. Retrieved from: <https://agropolit.com/news/23078-svitu-zagrojuje-prodovolcha-kriza-cherez-viynu-v-ukrayini--ekspert> [in Ukrainian].

**United Nations** (2015). Likvidatsiya goloda: pochemu eto vazhno [Elimination of hunger: why it is important]. Retrieved from: [https://www.un.org/ru/development/devagenda/pdf/Russian\\_Why\\_it\\_matters\\_Goal\\_2\\_ZeroHunger.pdf](https://www.un.org/ru/development/devagenda/pdf/Russian_Why_it_matters_Goal_2_ZeroHunger.pdf) [in Russian].

**United Nations** (2015–2022). How the UN is supporting The Sustainable Development Goals in Ukraine. Retrieved from: <https://ukraine.un.org/en/sdgs> [in English].

**United Nations** (2022). Chernomorskaya zernovaya initsiativa: chto eto takoe i pochemu ona vazhna dlya vsego mira? [Black Sea Grain Initiative: what is it and why is it important for the whole world?]. *United Nations: website*, September 16. Retrieved from: <https://news.un.org/ru/story/2022/09/1431761> [in Russian].

**Varaksina, O.** (2013). Osnovni aspekty ta faktory, shcho formuiut prodovolchu bezpeku krainy [Key aspects and factors providing country's food security]. *Naukovyi visnyk Poltavskoho universytetu ekonomiky i torhivli – Scientific Bulletin of the Poltava University of Economics and Trade*, no. 3(59), pp. 71–76 [in Ukrainian].

**Verkhovna Rada of Ukraine** (2022). Pro vnesennia zmin do deiakykh zakonodavchykh aktiv Ukrainy shchodo stvorennia umov dlia zabezpechennia prodovolchoi bezpeky v umovakh voiennoho stanu: Zakon Ukrainy vid 24 bereznia 2022 r. № 2145-IX [On amendments to some legislative acts of Ukraine regarding creating conditions for food security ensuring under martial law: Law of Ukraine of March 24, 2022 № 2145-IX]. Retrieved from: <https://zakon.rada.gov.ua/laws/show/2145-20#Text> [in Ukrainian].

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**СУЧАСНІ МІЖНАРОДНО-ПРАВОВІ ТА НОРМОТВОРЧІ ПРІОРИТЕТИ  
УКРАЇНИ У СФЕРІ ПРОДОВОЛЬЧОЇ БЕЗПЕКИ**

**Анотація.** *Метою статті* є розкриття міжнародно-договірного та нормотворчого інструментарію України у сфері регіональної і національної продовольчої безпеки в контексті Цілей сталого розвитку та з урахуванням умов, що виникли в результаті широкомасштабних військових дій на території України, які визначають основні тренди й бар'єри у сфері експорту вітчизняної продукції агропромислового комплексу.

**Методи дослідження.** Онтологічний складник дослідження зумовив гносеологічні підходи щодо застосування системи релевантних методів, спрямованих на реалізацію як аналітичної, так і прогностичної функцій права, зокрема ситуаційного аналізу, когнітивного моделювання, екстраполяції трендів, побудови сценаріїв.

**Результати.** Попри вимоги Стратегії національної безпеки України, прийнятої у 2020 р., донині зберігається прогалина в законодавстві України у сфері продовольчої безпеки, яка має бути усунена шляхом прийняття спеціального нормативно-правового акта в період післявоєнного відновлення України на підставі набутого як негативного, так і позитивного досвіду війни. З огляду на важливість преференційного режиму, запровадженого спеціальним регламентом Європейського Парламенту та Європейської Ради про тимчасову лібералізацію торгівлі, що доповнює торгові поступки, які застосовуються до української продукції відповідно до Угоди про асоціацію, Україна зацікавлена в добросовісному дотриманні всіх умов, передбачених у регламенті, що має забезпечити від повного або часткового призупинення дії зазначеного режиму в межах строку чинності цього акта вторинного законодавства Європейського Союзу до 5 червня 2023 р.

**Висновки.** Такі чинники, як військові дії на території України та свідомо морська блокада портів на Чорному морі, що порушили логістичні ланцюги експорту продукції агропромислового комплексу України, підтвердили її важливий статус і роль невід'ємного складника в системі регіональної та глобальної продовольчої безпеки. Тристороння Чорноморська зернова ініціатива є міжнародно-правовим інструментом, що вкрай необхідний для багатьох країн у різних регіонах світу, проте водночас настільки ж ненадійний у прогностичній площині в частині як дотримання всіма її сторонами досягнутих домовленостей, так і автоматичної пролонгації зі збереженням раніше узгоджених умов.

**Ключові слова:** продовольча безпека, морська блокада, чорноморська зернова ініціатива, законодавча підтримка Європейського Союзу.

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