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ВИДИ ПРАВОТВОРЧИХ ПОВНОВАЖЕНЬ УКРАЇНСЬКОГО НАРОДУ

Анотація. *Актуальність зазначеної проблеми вбачається в тому, що в сучасних умовах, знаходження держави у процесі розбудови суверенної і незалежної, демократичної, соціальної, правової держави, процес усвідомлення її народом свого місця та ролі є одним з ключових. Усвідомлення Українським народом своїх прав та обов'язків, в даному випадку правотворчих, сприятиме реальній можливості на участь народу в управлінні державними справами. Також слід зазначити, що не зважаючи на той факт, що проблема повноважень Українського народу, на даному етапі історії нашої держави, є надзвичайно актуальною, проте є не достатньо науково опрацьованою вітчизняними науковцями. Тому враховуючи вищезазначене, дана наукова стаття присвячена розгляду таких видів правотворчих повноважень Українського народу як право: народної ініціативу, а у його межах народної законодавчої ініціативи та народної референдної ініціативи; народного вето; народного опитування у тому числі і стосовно нормативно-правових актів; народної експертизи нормативно-правових актів та проектів нормативно-правових актів. Метою є розгляд теоретичного матеріалу, що стосується стану можливості використання вищезазначених видів правотворчих повноважень Українського народу, а також зарубіжного досвіду їх реалізації. Методологічною основою для написання даної статті стало використання комплексного підходу, що передбачає поєднання низки філософських, загальнонаукових та спеціально-наукових методів. На основі отриманих висновків та узагальнень розробити власні пропозиції та рекомендації стосовно вдосконалення національного законодавства з даної проблеми*

Ключові слова: *правотворчість, ініціатива, опитування, експертиза, Український народ*

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TYPES OF LAW-MAKING POWERS OF THE UKRAINIAN PEOPLE

Abstract. *The relevance of this problem is considered in the fact that in modern conditions of the state's process of developing a sovereign and independent, democratic, social, and legal state, the people's awareness of its place and role is one of vital aspects. The Ukrainian people's awareness of their rights and obligations, in this case law-making ones, will contribute to a real opportunity for the people to take part in the management of state affairs. Despite the fact that the problem of the powers of the Ukrainian people is extremely relevant at this stage of the Ukrainian history, it is understudied by Ukrainian researchers. Therefore, considering the above, this study is investigates such types of law-making powers of the Ukrainian people as the rights to: people's initiative, and within its framework – people's legislative initiative and people's referendum initiative; people's veto; people's survey, including regarding regulations; people's examination of regulations and draft regulations. The purpose of the present study is to consider theoretical material concerning the state of possibility of using the above-mentioned types of law-making powers of the Ukrainian people, as well as foreign practices in their implementation. The methodological framework of this study included an integrated approach, which involves a combination of numerous philosophical, general scientific, and special scientific methods. Based on the obtained conclusions and generalisations, the study aims to develop original proposals and recommendations for improving national legislation on this matter*

Keywords*: law-making, unitiative, survey, examination, Ukrainian people*

INTRODUCTION

Before considering this problem, it would be appropriate to refer to the study by V.V. Mukhin, which refers to the famous Canadian philosopher of legal science B. Melkevik, who claims that "there is a movement towards democratic autonomous legislation, more precisely, towards the implementation of the idea of autonomous law-making of citizens. This refers to the fact that subjects of law should be able to establish themselves realistically and mutually through the process of autonomous law-making as authors and legislators of their norms, their rights and their institutions, both legal and political. The question of legitimacy factually comes down directly to the real ability of subjects of law to consider themselves as authors of rights, confirming and asserting this. Where subjects of law are considered to be partially or completely deprived of the opportunity to be the authors of their rights, we have nothing but obsolete "legal" systems, obviously autocratic or "ideological". Where subjects of law do not have the opportunity to be "authors" of their "rights", as, for example, in religious systems with or without the text given in Revelation, we cannot discuss "rights" seriously, without being mistaken or deceived in this regard" [1, p. 12]. In other words, in democratic countries, we are actually in favour of implementing the idea of autonomous law-making of citizens, and legal systems that do not make provision for this are recognised as obsolete, autocratic, or ideologically biased.

Before directly considering the subject under study, it is advisable to analyse the definition of "law-making", "law formation" and "law-making powers of the Ukrainian people". Thus, "Law-making is the activity of competent state bodies, state-authorised public associations, labour collectives or (in cases stipulated by law) the entire people to establish, change, or cancel legal norms" [2, p. 52]. In addition, it is emphasised that "law-making is understood as an organisationally regulated, special form of activity of the state or directly to the people, as a result of which the needs of social development and the requirements of justice acquire a legal form that manifests itself in a certain source of law (regulation, precedent, customs, etc.)" [3, p. 321]. Furthermore, the Legal Encyclopaedia notes that "law-making is closely linked to legislation. The latter, however, is a narrower concept, since it exclusively concerns the adoption of laws, while law-making covers

the process of adopting both laws and other regulations" [4, p. 51]. "Law formation is a relatively long process of forming legal norms, which begins with the recognition of certain public relations by the state, awareness of the necessity of their legal regulation, formal consolidation and state protection of legal provisions". The process of law formation comprises several stages. The first is "an establishment of certain social relations, which as a result of repetition acquire statutory nature"; the second, which can be called law enforcement, is "state authorisation of public and national (in the historical aspect – primarily judicial) practice, its detailed legislative consolidation"; and the third, where the state "independently creates a wide scope of legal provisions. It is this stage that is called *law-making*" [3, p. 320].

As for the law-making powers of the Ukrainian people directly, it is most important to pay attention to the above-mentioned definitions of law-making, where the people is always specified among other subjects. After all, in democratic societies, the state cannot be a single subject of law-making, since it is the participation of the people, national minorities, indigenous peoples, public associations, labour collectives, and local self-governments in this process that ensures democracy and the development of civil society. Given the above, the authors of this study must admit that those authors who claim that "an inherent feature of modern law-making in Ukraine is the search for such forms that would not only be effective, but also have the highest level of legitimacy both in society and in the eyes of the foreign partners of Ukraine. Evidently, to solve this problem, it is necessary to use the potential of direct law-making of the people" [5, p. 19]. Considering all the above and analysing and synthesising the understanding of the terms "law formation" and "law-making", the fundamental constitutional provisions regarding the law-forming and law-making powers of the Ukrainian people, it is possible to state with full confidence that the law-making powers of the Ukrainian people constitute a set of their primary, fundamental rights and obligations assigned to them in regulations or exist objectively to ensure the ability to initiate, discuss, adopt, introduce changes and amendments, cancel regulations of various legal force and territorial scope of application. The following features of the law-making powers of the Ukrainian people can be distinguished from this definition:

– they are a set of rights and obligations of the Ukrainian people or a certain part of it, i.e., most importantly, collective rights and obligations;

– the law-making powers of the Ukrainian people are primary, fundamental, inaugural, inalienable, meaning that by implementing them, the Ukrainian people determine the main regularities of the law-making powers of all other subjects;

– they are consolidated in regulations or exist objectively;

– they are provided to ensure the ability to initiate, discuss, adopt, introduce changes and amendments, and cancel regulations;

– these regulations may have different legal force. Namely: the Constitution and laws of Ukraine, sub-legislative acts, charters of the territorial community, etc.;

– these regulations may have different territorial scope of application. This means that they can be national, adopted at an all-Ukrainian referendum, by the Ukrainian people and local, adopted at a local referendum, by the territorial community of a village, settlement or city, as part of it.

The scientific basis of this study includes the works of the following researchers: P.M. Rabinovich, T.O. Chernezhenko, N.M. Aleshina, M.V. Marchenko, V.V. Mukhin. However, there are not enough studies on this subject.

1. MATERIALS AND METHODS

Most importantly, "methodology is the study of the rules of thinking upon creating science, conducting scientific research. The methodology of science is mainly understood as the doctrine of the scientific method of cognition or a system of scientific principles which underlie research and justify the choice of means, techniques, and methods of cognition. There is another, narrower view of the methodology of science, when it is considered as the theoretical basis of some special, partial techniques and means of scientific cognition, for example, management methodology, pricing methodology, etc., but in this case it is apt to imply the methodology of knowledge and actions" [6, p. 14]. Thus, a full-fledged investigation of the subject of types of law-making powers of the Ukrainian people requires the use of a comprehensive approach, that is, a set of philosophical, general scientific, special scientific approaches and methods. After all, such an integrated approach will allow for a comprehensively investigation of the concept of law-making, as well as the distinguishment of the concept "law-making powers of the Ukrainian people" based on the data obtained. The use of an integrated approach will allow covering the subject of a study and analyse the types of law-making powers of the Ukrainian people. Considering the above, it is necessary to define the methodological framework of the paper "Types of law-making powers of the Ukrainian people", as a complex one, and which in the most

general form comprises methodological approaches, principles, philosophical, general scientific, and special scientific research methods. Thus, it is important to use an idealistic approach in the investigation of the types of law-making powers of the Ukrainian people, especially upon developing proposals and recommendations for improving legislation.

It should be followed by the principle of anthropocentrism, which, considering the subject under study, reveals that the powers of the Ukrainian people are one of the main criteria for the development of the Ukrainian state, and also that the types of these powers are created by the people as a subject of law, reflect the level of development of legal thinking, culture, and consciousness. This list should also mention the dialectical method. This method helped consider the subject under study, including its origin, development, and use in the past, in interrelation with various spheres of public life and phenomena of legal reality. The system method determined the analysis of various types of law-making powers of the Ukrainian people as an integral system that is developed and implemented according to relatively identical rules and patterns. Furthermore, the use of the system method gave a clear understanding that law-making powers of the Ukrainian people should be organically combined and interact with other legal phenomena, and only in this case they will have the right to exist. The method of analysis and synthesis was used considering the fact that analysis constitutes the dismemberment, decomposition of the object of research into its component parts, while synthesis constitutes the connection of individual sides, parts of the object of research into a single whole, for the process of highlighting the concept "law-making powers of the Ukrainian people". Induction and deduction, as methods of scientific search, were used in the formulation of the introduction, the results of discussion and in the development of conclusions of a study, since induction is a way of contemplation from the particular to the general. It is used to gain general knowledge based on knowledge about the particular. Deduction is a way of reasoning from the general to particular conclusions. For example, based on general knowledge, proposals were developed to improve the current legislation.

The method of forecasting, the essence of which is to obtain knowledge about future trends in the development of certain social phenomena, was used to justify the need to introduce changes to the current regulations. The historical stages of the institution of law-making powers of the Ukrainian people were investigated using the historical legal method. This method allowed identifying historical trends in the establishment and development of these powers, use the positive experience of the past of foreign countries, and improve Ukrainian legislation at the present stage of its development. The comparative legal method was used to process the available Ukrainian data on this problem and compare the texts of constitutions, laws, and other regulations of the world's countries to investigate the success accumulated in legal science and practice, to identify the most effective mechanisms for implementing the experience of other states in Ukrainian legislation.

2. RESULTS AND DISCUSSION

Most importantly, one should pay attention to such law-making powers of the Ukrainian people as the right of people's legislative initiative. Unlike national legislation, the right of people's legislative initiative is stipulated in the constitutions of many countries around the world. In general, it is believed that it was first proclaimed in the "Declaration of human and civil rights" of August 26, 1789, Article 6 of which stipulated that "the law is an expression of the universal will. All citizens have the right to take part personally or through their representatives in its creation. It should be the same for everyone, whether it protects or punishes. All citizens are equal before it and therefore have equal access to all titles, places, and occupations, according to their abilities and without any distinctions, except those conditioned upon their virtues and talents" [7]. Furthermore, Part 1, Article 64 of the Constitution of the Kyrgyz Republic of May 5, 1993 stipulates that the right of legislative initiative belongs to 30 thousand voters and this is indicated by the term "people's initiative", while Part 2, Article 96 specifies that changes and amendments to the current Constitution require the initiative of at least 300 thousand voters [8]. According to Paragraph 4, Article 29 of the Fundamental Law of the Federal Republic of Germany of May 23, 1949, "If in an interconnected limited population and economic space, parts of which are located in several lands and which has at least one million inhabitants, a tenth of the voters who enjoy the right to vote in the Bundestag, will demand by popular initiative the introduction of a single land affiliation in this territory, then the federal law must determine within two years whether the pertinence of this territory to a certain land will be changed in accordance with Paragraph 2 or a popular survey will be conducted in the lands interested" [9, p. 90].

Part 2, Article 41 of the Constitution of the Republic of Austria of the Federal Constitutional Law of November 10, 1920, regulating the procedure for making proposals to the National Council, which together with the Federal Council exercises legislative power, stipulates that every proposal coming from one hundred thousand citizens with the right to vote, or from one sixth of the citizens of the three lands with the right to vote (people's initiative), must be submitted by the Central Election Commission for discussion by the National

Council. A person with the right to vote in the implementation of a people's legislative initiative is someone who, on the day of participation in the people's legislative initiative, is granted the right to vote in the National Council and has the main place of residence on the territory of the community in the Federation. A proposal put forward in the order of a popular initiative should be presented in the form of a draft law [10]. Article 65 of the Constitution of the Republic of Latvia of February 15, 1922, stipulates that draft laws can be submitted to the Saeima: the president of the Republic, the Cabinet of Ministers, various commissions of the Saeima, groups of deputies comprising at least five people, as well as in cases and in accordance with the procedure stipulated by the Constitution, one tenth of voters [11]. Part 2, Article 71 of the Constitution of the Italian Republic of December 22, 1947 establishes that the people exercise legislative initiative by making a proposal on behalf of at least 50 thousand voters, drawn up in the form of an article-by-article draft [12, p. 423].

Parts 1 and 2, Article 71 of the Constitution of the Republic of Macedonia of November 17, 1991 stipulates that every deputy in the Assembly of the Republic of Macedonia, the Government of the Republic of Macedonia or a group of voters numbering at least 10 thousand people has the right of legislative initiative. Every citizen, group of citizens, institution, or association can apply for a legislative initiative to a person with authority. In addition, Article 130 stipulates that "the president of the Republic of Macedonia, the Government, at least 30 representatives or 150 thousand citizens have the right of initiative to amend the Constitution of the Republic of Macedonia" [13, p. 174]. Part 1, Article 141 of the Constitution of the Republic of Moldova of July 29, 1994, which entered into force on August 27, 1994, regulates that the initiative to review the Constitution can come from at least 200 thousand citizens of the Republic of Moldova with the right to vote. Citizens who give rise to the initiative to review the Constitution must represent at least half of the second-level administrative-territorial units, each of which must collect at least 20 thousand signatures in support of this initiative [14]. Part 1, Article 67 of the Constitution of Georgia of August 24, 1995 stipulates that the right of legislative initiative belongs to the president of Georgia, a member of Parliament, a parliamentary faction, a parliamentary committee, the highest representative bodies of Abkhazia and Adjara, at least thirty thousand voters. Furthermore, Part 1, Article 102 states that the right to introduce a draft law on general or partial revision of the Constitution is granted to: a) the president of Georgia; b) more than half of the total number of members of Parliament; c) at least two hundred thousand voters [15].

Analysing the above, it can be concluded that it is necessary to amend the Constitution and laws of Ukraine, making provision for the institution of the right of people's initiative, and within its framework – the right of people's legislative initiative and the right of people's referendum initiative, as well as the possibility of combined use of the above-mentioned two rights. Admittedly, the right of people's referendum initiative is stipulated by Part 2, Article 72 of the Constitution of Ukraine, but it raises a lot of questions. It would be more appropriate to call the right of people's legislative initiative the right of people's law-making initiative, since, within its framework, the adoption, introduction of changes and amendments to the Constitution, laws, sub-legislative acts, and international legal regulations can be initiated. But the most important is the particular settlement in the future Law of Ukraine "On the People's Law-Making Initiative" of the following points: the number of citizens or voters who are the initiators; the requirements put forward to the initiators (right to vote, term of residence, belonging to a certain territorial unit); the subject of the initiative (Constitution, laws, sub-legislative acts, international legal regulations); reservations to the subject of the initiative (do not initiate draft laws on taxes, amnesty, budget, ratification of international treaties); the procedure for submitting a proposal (requirement, justification, draft law); the procedure for implementing the proposal (through Parliament or referendum); legal consequences of the people's law-making initiative.

Investigating the people's initiative, which is implemented by adopting a law or other regulation on the initiative of the people in a referendum or the right of people's Referendum Initiative, it should also be mentioned that Part 2, Article 72 of the Constitution of Ukraine introduced the proclamation of an all-Ukrainian referendum on the people's initiative at the request of at least three million citizens of Ukraine who have the right to vote, provided that signatures on the appointment of a referendum are collected in at least two-thirds of the regions and at least one hundred thousand signatures in each region [16]. This law-making power of the Ukrainian people, which can be not only law-making, is crucial, because it actually combines two of its rights – the right to people's initiative and the right to a referendum. And there is no alternative but to agree with the opinion of O.M. Chernezhenko, according to which "the institutions of direct democracy in Switzerland (referendum and the right of people's initiative) are complementary tools that allow the people and subjects of the Federation (cantons) to most effectively and directly take part in the exercise of public power, as well as in making important decisions for the state and society" [17, p. 5].

Therewith, a lot of questions arise regarding its constitutional consolidation. Firstly, why this refers only to signatures that need to be collected in at least two-thirds of the regions and at least one hundred thousand signatures in each and fails to mention the Autonomous Republic of Crimea, the cities of Kyiv and Sevastopol,

which was particularly relevant at the time of the adoption of the Constitution of Ukraine – June 28, 1996, and even in the modern period of Ukraine's existence. Secondly, the conditions for proclaiming an all-Ukrainian referendum on the people's initiative are as follows: a) the requirement of at least three million citizens of Ukraine; b) they must have the right to vote; c) signatures on the appointment of a referendum must be collected in at least two-thirds of the regions; d) at least one hundred thousand signatures must be collected in each region. But these conditions are frankly difficult to perform, since this procedure is cumbersome, excessively complicated, and financially costly, as a result of which its implementation in practice is possible only if many formal and substantive conditions are met simultaneously. Admittedly, the current low activity of civil society institutions, a low level of legal consciousness and legal culture of Ukrainian citizens are an obstacle to its implementation. Furthermore, it is advisable to submit only those laws that have the most important social and national significance to the All-Ukrainian referendum, which is an additional evidence of the need to introduce the right of people's law-making initiatives in Ukraine, the implementation of which is much easier.

In addition, the conditions for proclaiming an all-Ukrainian referendum on the people's initiative frankly do not meet generally recognised standards, and especially those of European democracy. Thus, Part 1, Article 74 of the Constitution of the Republic of Belarus of March 15, 1994, with changes and amendments adopted at the Republican referendums of November 24, 1996 and October 17, 2004, stipulates that Republican referendums are appointed by the president of the Republic of Belarus on his personal initiative, as well as on the proposal of the House of Representatives and the Council of the Republic, which are adopted at their separate meetings by a majority vote of the constitutionally composition of each of the chambers (in full session), or on the proposal of at least 450 thousand citizens vested with the right to vote, including at least 30 thousands of citizens from each of the regions and the city of Minsk. And Article 75 stipulates that local referendums are appointed by the corresponding local representative bodies on their own initiative or on the proposal of at least ten percent of citizens who are granted the right to vote and live in the corresponding territory [18]. Part 3, Article 73 of the Constitution of the Republic of Macedonia of November 17, 1991, upon regulating the status of the Assembly of the Republic of Macedonia, which is a representative body exercising legislative power, stipulates that the assembly is obliged to declare a referendum if the proposal comes from at least 150 thousand people [19].

Differentiation of requirements for its implementation would contribute to improving the right of the people's referendum initiative in Ukraine. In particular, the number of votes demanding its proclamation should depend on the issues that are initiated for popular voting, that is, the subject of the referendum. After all, it is clear that it is one thing to adopt a new constitution, or a new version of the Constitution, make changes and amendments to it, resolve issues on changing the territory of Ukraine, and quite another to adopt a law, a sublegislative act, approve national development programmes, etc. It is also possible to optimise the subject of an all-Ukrainian referendum by clearly defining the issues that can be initiated by the Ukrainian people and decided by them in a referendum. Therewith, guided by the theory of popular sovereignty, democracy, primacy of the constituent power and powers of the people, it is sensible to supplement Article 72 of the Constitution of Ukraine with Part 3 in the following wording: "An all-Ukrainian referendum on a popular initiative can be proclaimed on any matter that falls under the jurisdiction of Ukraine, with the exception of matters that are directly prohibited by the Constitution and legislation of Ukraine." Therewith, it is critical to find out the differences between a referendum and a people's legislative initiative, which can be seen in the following aspects. Firstly, if any issue, including a draft law, can be put to a referendum, then the implementation of a people's legislative initiative concerns only a particular draft law that is submitted to the legislative body or submitted for consideration by a referendum. Secondly, the entire people (a national referendum) or a certain part of it (a local referendum) take part in a referendum, and for the implementation of a people's legislative initiative, the participation of a clearly defined number of representatives of the people is sufficient.

Very close to the previous point, law-making powers of a part of the Ukrainian people, namely the territorial community of a village, settlement, city, municipal district, is the right to local initiative. After all, Part 1, Article 9 of the Law of Ukraine No. 280/97-BP "On Local Self-Government in Ukraine" of May 21, 1997 establishes that "members of a territorial community have the right to initiate consideration in the council (in the order of local initiative) of any issue referred to the jurisdiction of local self-government" [20]. In other words, this refers to the right to initiate consideration of any issue in the Council, including a regulation. Therewith, Part 2, Article 9 of this Law of Ukraine regulates, although very schematically, the procedure for submitting an initiative to the Council for consideration, Part 3 – the procedure for its consideration, and Part 4 – the procedure for publishing a decision of the Council. Therewith, it is noteworthy that Part 4 refers specifically to the decision of the Council as its regulation, which is also proof that this right is, first of all, of law-making nature. The right to local initiative undoubtedly requires its more detailed regulation by a nation-wide regulation. It is clearly not enough for its full approval and implementation to stipulate only that "the procedure

for submitting a local initiative for consideration by the council is determined by a representative local self-government body or the Charter of a territorial community, considering the requirements of the Law of Ukraine "On the Fundamentals of National Regulatory Policy in the Sphere of Economic Activity" [20]. A single national standard for initiating, collecting signatures, the procedure for submitting, reviewing, appealing, and the legal consequences of a local initiative should be worked out. In any other case, this right will be ineffective – proclaimed, but not implemented.

An example of detailed regulation of the right to local initiative, albeit still at the local level, can be the "Charter of the Territorial Community of the City of Odesa", approved by the decision of the Odesa City Council No. 1240-VI "On Approval of the Charter of the Territorial Community of the City of Odesa" of August 25, 2011, Certificate of State Registration of the Charter of the Territorial Community No. 1 issued by the Odesa City Department of Justice of October 7, 2011, the Article 22 "Local Initiatives" of which regulates in detail as follows: understanding; introduction; subject; subjects of initiation; collection of signatures in support; familiarisation with the essence; deadline for collecting signatures in support; registration of subscription lists; checking the completeness of their filling and reliability; refusal to register a local initiative; correction of detected violations and re-submission of subscription lists; registration of a local initiative; preparation of a draft decision of the city council; consideration of a draft decision submitted in the order of a local initiative; mandatory consideration at an open plenary session of the City Council; publication of the decision of the City Council [21]. In confirmation that the right of the territorial community of a village, settlement, city, municipal district to local initiative and many other rights of this part of the Ukrainian people should be regulated in more detail by the nation-wide regulation, the authors of the present study note that a proposal to adopt the Law of Ukraine "On Territorial Communities" and the unified "Model Charter of Territorial Communities of Ukraine" has been repeatedly introduced in Ukrainian legal sources for approval [22, p. 8].

The Constitution of Ireland of 29 December 1937 makes provision for an entire section called "Passing a Draft Law to the People's Decision", Part 1, Article 27 of which establishes that a majority of members of the Senate and at least two-thirds of the members of the House of Representatives, by a joint petition addressed to the President, may require the president to refuse to sign and promulgate as law any draft law, on the grounds that the draft law contains provisions of such national importance that the will of the people must be heard. And Part 5 of the same article stipulates that in every case where the president decides that a draft law containing a proposal of such national importance that it is necessary to hear the will of the people, he must inform the Prime Minister and the Head of each of the Houses of Parliament in writing, signed and stamped, of the refusal to sign and promulgate such a draft law as a law, unless and until the proposal is approved by the people in a referendum within eighteen months from the date of the presidential decision or by a resolution of the House of Representatives adopted in the same period after the dissolution of a new meeting of the House of Representatives. The right to the people's veto is stipulated in Article 47 of the Constitution of Ireland of December 29, 1937 and for amendments to the Constitution itself [23]. Therewith, a reservation should be made that the people's veto, as a law-making power of the Ukrainian people, which concerns exclusively regulations and is implemented through popular voting, i.e., by holding a referendum, should be distinguished from the right to a referendum on the people's initiative in general, to which any issue can be submitted.

In summary, upon introducing amendments to the Constitution of Ukraine, it is advisable to inherit the provisions of Article 72 of the Constitution of the Republic of Latvia of February 15, 1922; Part 1, Article 75 of the Constitution of the Italian Republic of December 22, 1947; Articles 42 and 88 of the Constitution of the Kingdom of Denmark of June 5, 1953; and Parts 1 and 5, Article 27 and Article 47 of the Constitution of Ireland of December 29, 1937, since they clearly define the subject of suspension of the publication of the law; the grounds for mandatory detention; the period during which suspension may occur; the basis for initiating a mandatory people's veto; the legal consequence of not providing the basis for a mandatory people's veto; the procedure for implementing the institution of a people's veto (mainly through a referendum); the mechanism for the complete or partial repeal of laws or acts that have the force of law; the procedure for voting and determining the results of a people's veto; the basis for which the people's veto does not take place. Another reservation to be made on this matter is, admittedly, that the introduction of the institution of the people's veto in Ukrainian constitutional legislation, especially in practice, will considerably democratise them, providing an opportunity for the Ukrainian people to influence the government, the legal system, the system of national legislation, and will generally strengthen the constitutional legal status of the Ukrainian people. From these positions, a fair opinion is that "One of the ways to strengthen the role of the bearer of sovereignty – the people – in legislative activity is to introduce mechanisms of people's legislative (law-making) initiative and people's veto. People's legislative initiative is a form of direct participation of the people as the bearer of sovereignty and the source of public power in the implementation of the legislative function of the state by

submitting draft laws on their behalf to the parliament and then mandatory consideration by the legislative body as a matter of priority. People's veto is a form of direct participation of the people as the bearer of sovereignty and the source of public power in the implementation of the legislative function of the state by rejecting (or denying) a draft law (law) previously adopted by the parliament" [24, p. 11].

The law-making power of the Ukrainian people is the right of people to poll, including in relation to regulations. Upon considering it, it is sensible to emphasise that Paragraph 5, Article 29 of the Fundamental Law of the Federal Republic of Germany of May 23, 1949, which governs changes in the territory of the Federation, establishes that "the purpose of a people's survey should be aimed at establishing whether or not the change of ownership of the territory to the land proposed by law is approved. The law can submit various proposals for the people's survey, but there should be no more than two of them. If the majority accepts the proposed change of land ownership, then within two years the federal law must establish whether the land ownership changes in accordance with Paragraph 2", and Paragraph 6 of the same Article stipulates that "The majority in a referendum and in the people's survey is recognised as the majority of votes cast, if it covers at least a fourth of the voters eligible to vote in Bundestag elections. The details of holding a referendum, the people's initiative, and the people's survey are governed by federal law; the law may also stipulate that a people's initiative cannot be repeatedly proposed earlier than in five years" [9, p. 90]. This suggests that the above-mentioned paragraphs of Article 29 of the Fundamental Law of the Federal Republic of Germany of May 23, 1949 make provision for the purpose, method, and number of making proposals for the people's survey, its legal consequences, determining the majority of votes in a referendum and in a popular poll, and even the details of holding a referendum, the people's initiative and the people's survey, which, admittedly, deserves to be borrowed in Ukrainian legislation. Furthermore, it is absolutely safe to say that the Fundamental Law of the Federal Republic of Germany of May 23, 1949 distinguishes between a referendum, the people's initiative, and the people's poll. Investigating such a law-making power of the Ukrainian people as the people's survey, it is impossible not to recall that Chapter VI, unfortunately, of the no longer current Law of Ukraine "On All-Ukrainian and Local Referendums" of July 3, 1991 No. 1286-XII, which was called "Advisory survey of citizens of Ukraine", made provision for two types of advisory survey of citizens of Ukraine, namely:

a) an advisory survey of citizens of Ukraine or (a consultative referendum), which was stipulated by Article 46, Part 1 of which noted that to identify the will of citizens when solving important issues of national and local significance, all-Ukrainian and local advisory surveys of citizens of Ukraine (consultative referendums) can be conducted in accordance with the procedure stipulated by the aforementioned law. The results of the advisory survey are reviewed and considered upon decision- making by the corresponding state bodies. Part 2 thereof stipulated that if draft laws, other decisions of the Verkhovna Rada of Ukraine, or decisions of the local council of people's deputies do not correspond to the results of the All-Ukrainian or relevant local advisory survey, then such laws, decisions can only be adopted by a majority of at least two-thirds of the total number of People's Deputies of Ukraine or Deputies of the corresponding local Council of People's Deputies;

b) public opinion survey, which was consolidated in Article 47, established that public opinion surveys are conducted in a different order than stipulated by the Law of Ukraine No. 1286-XII "On All-Ukrainian and Local Referendums" of July 3, 1991, or on issues that, according to the aforementioned Law of Ukraine, cannot be submitted to all-Ukrainian and local referendums, do not have the status of an advisory survey of citizens of Ukraine (consultative referendum) and the legal consequences that follow from this [25].

The analysis of the above suggests that 1) at that time there were two types of advisory survey of citizens of Ukraine: a) advisory survey of citizens of Ukraine (consultative referendum); or b) Public Opinion Survey; 2) the first of them – advisory survey of citizens of Ukraine or (consultative referendum): a) was considered as the will of citizens of Ukraine; b) was conducted to solve important issues of national and local significance; c) was divided into all-Ukrainian and local; d) its results were considered and reviewed by the corresponding state bodies upon making decisions; e) if the draft laws, other decisions of the Verkhovna Rada of Ukraine, or decisions of the local Council of People's Deputies did not correspond to the results of the All-Ukrainian or local advisory survey, then such laws, decisions could only be adopted by a majority of at least two-thirds of the total number of People's Deputies of Ukraine or deputies of the corresponding local Council of People's Deputies and this gives grounds to assert that they had legal force and caused legal consequences. Considering the above, taking care of improving the constitutional legal status of the Ukrainian people, it is necessary to make provision for and restore the right to the people's survey in the Constitution of Ukraine, including in relation to regulations. For example, Part 2, Article 40 of the Constitution of the State of Argentina of May 1, 1853 (as amended in 1860, 1866, 1898, 1957, and 1994) stipulates that the Congress or the President of the State, in accordance with their powers, have the right to declare a consultative popular referendum and in this case voting is not mandatory [26].

The law-making power of the Ukrainian people is the right to national examination of regulations and draft regulations. National examination of regulations and draft regulations is sometimes called public or social. Upon investigating the people's examination of regulations and draft regulations as the law-making powers of the Ukrainian people, it is impossible not to mention the Resolution of the Cabinet of Ministers of Ukraine No. 61 "Issues of Conducting Anti-Discrimination Examination and Public Anti-Discrimination Examination of Draft Regulations" of January 30, 2013, which stipulates that public anti-discrimination examination is performed by public organisations, individuals and legal entities within the framework of public discussion of draft regulations [27]. In addition, Paragraph 3, Part 1, Article 21 of the Law of Ukraine No. 1700-VII "On Prevention of Corruption" of October 14, 2014 stipulates that public associations, their members or authorised representatives, as well as individual citizens, in their activities on combatting corruption have the right to "... conduct, order public anti-corruption examination of regulations and draft regulations, submit proposals to the corresponding authorities based on the results of the expert examination, and receive information from the corresponding authorities on the accounting of submitted proposals" [28]. In this regard, it can be argued that the people's examination of regulations and draft regulations is a requirement of the time, which is conditioned upon the modern level of democracy, the need to organise interaction between the Ukrainian people and public power institutions, establishing their common responsibility for the future development of society and the state. Therefore, this right of the Ukrainian people should undoubtedly find its constitutional consolidation, especially since it is being intensively popularised.

CONCLUSIONS

To summarise the above, the law-making powers of the Ukrainian people constitute a set of their primary, fundamental rights and obligations, which are assigned to them in regulations or exist objectively to ensure the ability to initiate, discuss, adopt, introduce changes and amendments, cancel regulations of various legal force and territorial scale of application. Attributes of law-making powers of the Ukrainian people include:

– a set of rights and obligations of the Ukrainian people or a certain part of it, i.e., most importantly, collective rights and obligations;

– the law-making powers of the Ukrainian people are primary, fundamental, inaugural, inalienable, meaning that by implementing them, the Ukrainian people determine the main regularities of the law-making powers of all other subjects;

– they are consolidated in regulations or exist objectively;

– they are provided to ensure the ability to initiate, discuss, adopt, introduce changes and amendments, and cancel regulations;

– these regulations may have different legal force. Namely: the Constitution and laws of Ukraine, sub-legislative acts, charters of the territorial community, etc.;

– these regulations may have different territorial scope of application.

The types of law-making powers of the Ukrainian people include their rights to: people's initiative (people's law-making and people's referendum initiative); local initiative; people's veto; people's discussion of draft regulations; people's survey on regulations; people's expertise of regulations and draft regulations. Furthermore, it is necessary to amend the Constitution and laws of Ukraine, making provision for the institution of the right of people's initiative, and within its framework – the right of people's legislative initiative and the right of people's referendum initiative, as well as the possibility of combined use of the above-mentioned two rights. Admittedly, the right of people's referendum initiative is stipulated by Part 2, Article 72 of the Constitution of Ukraine, but it raises a lot of questions. It is also necessary to make provision for and restore the right to the people's survey in the Constitution of Ukraine, including in relation to regulations. Ultimately, the law-making powers of the Ukrainian people cannot completely fail to exist, they cannot be symbolic or such that exist only for the legalisation of regulations that have been developed in advance and are beneficial to public authorities. They should be fully consolidated in regulations. In any other case, the authorities will not understand, estrange itself from and conflict with the Ukrainian people.

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