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# Call for Papers

## Volume XV, Issue 1(29), Summer 2024

### Theoretical and Practical Research in Economic Fields

Many economists today are concerned by the proliferation of journals and the concomitant labyrinth of research to be conquered in order to reach the specific information they require. To combat this tendency, **Theoretical and Practical Research in Economic Fields** has been conceived and designed outside the realm of the traditional economics journal. It consists of concise communications that provide a means of rapid and efficient dissemination of new results, models, and methods in all fields of economic research.

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## Features of Reforming Economic Legislation in the Conditions of Russian Aggression: Theoretical and Legal Aspects

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**Abstract:** *The aim of the article is to justify the inexpediency of the abolition of the Economic Code of Ukraine during martial law on the basis on the analysis of international legislation on management. Thus, the analysis of international codified acts on the economic sphere regulation shows that the abolition of the Economic Code of Ukraine does not correspond to the Concepts for updating civil and economic legislation as one of the ways of approximation of domestic legislation to international standards. Apart from that, based on the analysis of current Ukrainian and international legal acts, an attempt is made to explore the problems associated with the use of mechanisms for protecting rights to private property and bringing war criminals to justice for its destruction. Furthermore, the authors propose to improve the mechanisms for protecting the right to private property that is destroyed or damaged as a result of war crimes committed by Russian invaders on the territory of Ukraine. Finally, the authors highlight the key problems related to the restoration of the violated right to private property, which was destroyed or damaged as a result of hostilities on the part of Russia and emphasize the need to adopt international experience in order to increase the effectiveness of mechanisms for defending the violated right to property with the assistance of international legal institutions.*

**Keywords:** economic law; Economic Code of Ukraine; Civil Code of Ukraine; reforms; recodification.

**JEL Classification:** K00; K40; L40; A12; R11.

### Introduction

The full-scale invasion of the Russian Federation into the territory of sovereign Ukraine, which took place on February 24, 2022, made significant and largely unexpected adjustments to the entire system of Ukrainian state-building. All components of a democratic society, including legal institutions, were under the threat of total

destruction. War crimes of Russian aggressors have caused considerable and irreparable damage to the economy of Ukraine. According to experts, the amount of economic damage caused reaches more than \$700 billion. Analysing the damage caused by the Russians, Prime Minister of Ukraine Denys Shmyhal said: "According to our estimates, verified by the World Bank, the amount of damage caused to the Ukrainian economy is \$350 billion as of June 1. By the end of the year, this amount will obviously double. We understand this as the destruction continues" (Interfax Ukraine 2022).

In the article "How the Ukrainian economy survived 2022", it is reported that according to the EBA survey, due to the hostilities business experienced a change in the working schedules (66%), a decrease in production (40%), and a partial closure of capacities (12%) (Zanuda 2022). Under such conditions, problems related to the regulation of property relations in the economic sphere arose with particular severity because a significant part of business entities were forced to leave the places of entrepreneurial activity and move to safer regions of Ukraine. This means that legislative activity in the economic sphere had to be carried out in such a way as to find the most effective and optimal solutions in response to the new challenges.

It should be considered that the regulation of economic activities did not remain without attention of scientists and practitioners, as evidenced by scholarly publications and draft laws in order to improve the regulatory framework of entrepreneurship. In this regard, it is essential to consider the polar views of representatives of different scientific schools. Thus, some of them believe that economic legislation is a simple combination of civil law and administrative law norms that operate in the field of management. This position is supported by Bratus, Halfina, Matveev, Shevchenko, Dovgert and others. At the same time, Mamutov (2004) and Pobirchenko (2013) express the opposite opinion. According to them, economic law is an independent branch of law.

Based on the provisions of the logical law of sufficient basis, we adhere to the views of scholars who believe that economic law is a complex branch of law that interacts with and is closely connected with other branches of law. Therefore, economic law combines the legal norms of the main branches of law; they have one subject of regulation - economic activity. However, on the day of writing this article, the Economic Code of Ukraine is in force, which regulates all legal relations in the sphere of economic activity. So, it is fundamental to adhere to the fact that the regulation of the sphere of management takes place within the regulatory framework of the Economic Code of Ukraine.

At the same time, we believe that in the new socio-economic conditions, economic legislation should be significantly improved in the areas of unification of certain provisions of contract law, property rights of a business entity (legal entities and citizens-entrepreneurs). In addition, it is necessary to remove from the Civil Code of Ukraine the provisions on the creation and registration of a legal entity (Subsection 2 (Legal entity) Chapter 7 (General provisions on a legal entity) (Civil Code of Ukraine, 2003). We are convinced that the reform of economic legislation should not be carried out by abolishing the Economic Code of Ukraine, but by developing new norms that reflect exclusively economic components, and supplementing it with provisions of other legislative acts, which are purely economic by their legal nature.

## **1. Materials and Methods**

This section should be detailed enough that readers can replicate your research and assess whether the methods justify the conclusions. It's advisable to use the past tense – it's about what you did – and avoid using the first person. Ultimately, you should explain how you studied the problem, identify the procedures you followed, and structure this information as logically as possible to achieve the aim of the research, the authors used the relevant general and special methods. This approach contributes to the logical construction of expressed judgments, justified by the relevant scientific, theoretical, and practical conclusions. During the research, the authors adhere to the main principles of scientific knowledge, which are an active creative approach to the study of the subject of the research, an objective assessment of legal phenomena under study.

The laws of dialectics and logic as the basis of scientific research allow to combine legal science and law enforcement practice as components of the integral process of Ukrainian state-building based on the interaction of general philosophical and dialectical methods. The principle of determinism contributes to the study of the cyclical development of legislation in the economic sphere and helps the authors to generalize on the assessment of the processes of historical development of economic law. The practical aspect of this research consists in promoting the further development of economic law as the only correct form of regulation of legal relations in the field of economy.

Carrying out the selection of effective methodological tools, we determine the most relevant interpretation of this philosophical and legal concept. The method combines subjective and objective aspects of cognition. It is

objective because it allows to reflect reality and its relationships. Consequently, the method is a program of construction and practical application of the theory. At the same time, the method is subjective, since it is an instrument of the researcher's thought and includes its subjective features (Konverskyi, 2010).

The above explanation of the content of the concept of method reveals an unlimited scientific and practical field, which, on the one hand, is framed by normative boundary marks (an objective component), and on the other hand, it contributes to the formation of new logical and legal constructions (a subjective component), which, owing to the possibilities of scientific prediction (a hypothetical method), lead the researcher to new scientific horizons.

Regarding general scientific methods, it should be considered that as a system of principles and techniques, they have a common character for the field of jurisprudence, but do not have a clear regulation and to a greater extent they acquire signs of abstraction. Due to the universal qualities, the use of such methods provides an opportunity to refer to the conclusions of scientists of other fields who directly or indirectly dwelt on the issue under study. To properly describe the results of the study, among a significant variety of general methodological techniques, the methods of observation and comparison were chosen as components of the empirical research, as well as structural elements that form the system of methods of theoretical research (formalization, idealization, convergence from the abstract to the concrete, analysis, synthesis, induction, deduction, etc.).

The application of the method of observation allows to single out and assess certain features of legislative activity in the field of economy, while the method of comparison contributes to making reasonable conclusions about the need not only to preserve the Economic Code of Ukraine, but also to further improve legislation on legal relations in the business sphere. Due to the fact that the theoretical level of research facilitates a comprehensive analysis of the facts, the authors of this article try to obtain reasoned explanations for debatable issues that led to attempts to abolish the Economic Code of Ukraine on the basis of the provisions of the laws of logic and dialectics.

In this regard, the method of formalization contributes to the justification of the need to adopt new norms or to introduce and supplement the current legislation in order to eliminate the possibilities for speculation about the duplication of the legal framework of other branches of law by economic law. The use of the idealization method helps create a scientific conclusion, which, being derived from the current legislation in the economic sphere, indicates new ways and provide reasoned objections to supporters of the abolition of the Economic Code of Ukraine.

The reasoning from abstract to concrete as a general scientific method allows to formulate clearly author's conclusions and generalizations by providing definitions for the phenomena under study, given the socio-economic situation in Ukraine. The use of the analysis permits to distinguish new characteristics of the research subject since the course of the study provides for a comprehensive study of the study object (economic law), considering the special features of the conduct of entrepreneurial (economic) activity during the Russian aggression.

The method of synthesis is used to combine the components of the economic activity in Ukraine, the regulation of this sphere, and the influence of laws and by-laws adopted in the conditions of the Russian invasion in the economic sphere. The application of the inductive method allows to draw conclusions on the regulation of the economic sphere of Ukraine in conditions of war and to suggest measures for the improvement of economic legislation. The deductive reasoning helps present all the qualitative characteristics of the legal sphere of the state as a multiple integral concept on the basis of the theoretical and legal analysis of economic law in the system of law of Ukraine.

When analysing certain aspects of the reform of economic legislation, the special-scientific research methods are used, namely: formal legal, special legal, comparative legal, state legal modelling method, and the method of interpretation of legal norms. Thus, the application of the formal legal method facilitates the study of the relationship between the internal content of legal norms in the field of economy and the external manifestations of the influence of state legal institutions on the entire economic sphere as an integral legal phenomenon. This method also allows us to analyse the sources of law and therefore more fully characterize the legal field that needs to be modernised (reformed). In addition, it also permits to conduct a legal assessment of the activities of the state and legislators in establishing the constitutional foundations of law and order in the economic sphere, as indicated by Article 5 of the Economic Code of Ukraine (Konverskyi 2010).

The special legal method contributes to the establishment of external signs of the latest challenges in the economic sphere, requiring the improvement or change of the regulatory framework, which at this time regulates relations between the participants in the economic sphere. Moreover, the assessment of the level of interaction between the legislative support of relations in the economic sector and state bodies when applying the current

economic legislation deserves particular attention. Furthermore, the comparative legal method is aimed to justify the authors' conclusions on the necessity to resort to international experience in organising the regulation of the economic sphere, paying special attention to the EU experience.

The comparative legal method is applied in two states. At the first stage, it allows to compare individual institutions and legal phenomena related to the economic sphere in Ukraine and the EU countries. The second stage facilitates a new level of understanding of common features and differences in the legal regulation of the economic sphere in different countries. The generalization of the results assesses the legal measures taken to improve the situation in the economic sphere.

In addition, with the help of the method of state legal modelling, the features and changes in the organization of the economic sphere in the conditions of Russian aggression are explored. Besides, this method offers the structural model of the updated Economic Code of Ukraine. Finally, owing to the use of the method of interpretation of legal norms, it is possible to formulate new categories of economic law in order to expand the content of existing norms or suggest definitions of formally undefined concepts and categories of this sphere.

## **2. Research Results**

### **2.1. Problematic Issues of Regulation of the Economic Sphere in Ukraine during Russia's Aggression**

This section should present your findings objectively, explaining them largely in text. It's where you show how your results contribute to the body of scientific knowledge, so be clear and logical. And it's important not to interpret your results – that comes in the Discussions and Conclusions and Further Research sections.

You can base the sequence of this text on the tables, figures and graphs that best present your findings. Emphasize any significant findings clearly. Tables and figures must be numbered separately; figures should have a brief but complete description – a legend – that reveals how the data was produced. The unbiased assessment of the current state of regulation of economic processes, it is possible to affirm that the academic discussion on the role and place of economic law in the legal system of Ukraine has reached a new, war-adjusted level. It is necessary to take into account not only the desire of individual scholars to abolish the Economic Code of Ukraine, but also the objective socio-economic conditions, especially the fact that Ukraine is at war.

As it can be seen from the statistical and legal analysis conducted by the authors, scientists have completely changed their vision of approaches to determining the status of economic law as an independent, artificial or complex branch. The issue is set in a radically different plane: to distinguish or not the economic law, to cancel or to preserve the Economic Code of Ukraine in force. In this regard, it should be noted that the attack on economic law is most emphasized by the drafters of the Concept of modernization of the Civil Code of Ukraine within the framework of the recodification of the civil legislation of Ukraine (Working Group on Recodification (Renewal) of Civil Legislation of Ukraine, 2020). The working group on recodification (renewal) of the civil legislation of Ukraine was approved by the Resolution of the Cabinet of Ministers of Ukraine of 17.07.2019. No. 650 "On the formation of a working group on the recodification (renewal) of civil legislation of Ukraine" (Cabinet of Ministers of Ukraine 2019).

Without resorting to the logical and legal analysis of the scientific views of individual members of the working group, we believe that the position of a member of this group - People's Deputy of Ukraine, Chairman of the Verkhovna Rada of Ukraine, Doctor of Law, Professor Stefanchuk, which he expressed in an interview with Hryshanova, is the most significant one. Justifying the need to update the civil legislation, Stefanchuk notes: "First of all, Book One, which regulates the general provisions of the Civil Code of Ukraine, undergoes serious changes. We proposed to recognize the Economic Code of Ukraine as invalid since it does not meet the parameters of acts regulating entrepreneurial relations, which belong to private law by their nature" (Verkhovna Rada of Ukraine 2021).

We share the opinion of the Chairman of the Verkhovna Rada of Ukraine that the key element of the concept of "entrepreneur" is a private person. However, in the context of legitimate entrepreneurial activity, we are talking about the fact of a citizen's voluntary acquisition of the status of a business entity in accordance with the constitutional rights granted. At the same time, having assumed additional obligations to the state and having entered into an economic environment determined by the norms of law, such a citizen acquires additional characteristics that distinguish him/her from other members of society not engaged in the business sphere. It is these characteristics that do not allow full realization of private law relations since the imperative nature of the relationship "entity – state" excludes the opportunity for the entrepreneur to make his/her own decision, which is covered by the concept of dispositivity. Moreover, a citizen without the status of entrepreneur can dispose of his/her rights at his/her own discretion, observing the norms of legislation.



Hence, the reduction of economic legal relations to the sphere of private law, that is, those regulated by civil law, in our opinion, is not entirely correct because in this way the bidding nature of the citizen-entrepreneur's obligations as an accountable and controlled person in connection with the performance of economic functions are levelled. An important circumstance that determines the attitude of scientists and legislators-reformers of civil legislation to the branch of economic law is the preparation of relevant draft laws aimed at abolishing the Commercial Code of Ukraine. First of all, it is necessary to consider the Draft Law of Ukraine No. 6013 of September 9, 2021 "On the peculiarities of regulation of business activities of certain types of legal entities and their associations in the transition period" (2021). It was adopted as a basis on 12<sup>th</sup> of January 2023, at the plenary session of the Parliament.

Part 4 of the Final and Transitional Provisions of the Draft Law proposes "to recognize the Economic Code of Ukraine as invalid from the date of entry into force of this Law" (Economic Code of Ukraine 2003). Part 3 of this section of the Draft Law provides that Articles 4-19 of this Law "shall expire after seven years from the date of entry into force of this Law" (Economic Code of Ukraine 2003). So, to resolve issues related to the regulation of the economic sphere, the legislator establishes a transitional period of 7 years. However, the legal analysis of the text of the Draft Law conducted by the authors, such a period is not motivated by anything, which raises doubts about this document being based on verified financial and economic calculations.

In paragraph 3 "General characteristics and main provisions of the Draft Law" of the Explanatory Note to this Draft Law, it is noted that the Economic Code of Ukraine is subject to cancellation due to the fact that "its provisions mostly do not have a regulatory effect, are declarative in content, and also contradict other normative legal acts and general principles of civil legislation". However, the authors believe that such arguments for the abolition of a codified legal act cannot be perceived as a sufficient basis. Therefore, the authors of the Draft Law endow the Economic Code with those qualities that make it dependent on civil legislation without providing sufficient convincing arguments. According to the provisions of the Constitution of Ukraine, all normative legal acts are adopted on the basis of the Basic Law and should not contradict it (the authors' interpretation of Article 8 of the Constitution of Ukraine).

Moreover, the Economic and Civil Codes have different subjects of regulation although they interact very closely in the practical implementation of the obligations by the economic entity stipulated by the law. This interrelation of two codified acts in no way implies or establishes the subordination of the Economic Code to the Civil Code. Therefore, it is disturbing that the authors of the Draft Law in the Explanatory Note, among the goals and objectives, define the following: changes envisaged by the Draft Law of Ukraine during the transition period aimed at improving corporate governance in legal entities based on state and communal property; increasing the investment attractiveness of the country; introducing effective mechanisms for controlling the use of state and communal property; and eliminating contradictions between the Civil Code of Ukraine and acts of special legislation.

As seen from the quoted paragraph, the legislator generally does not address issues related to the settlement of legal relations of subjects within private law. At the same time, unreasonable extrapolation of tasks and obligations of legal entities of state and communal forms of ownership to representatives of the private legal part as part of economic legal relations will further introduce confusion in the organization of regulatory activities. Summing up this subsection of the article, it is necessary to point out the most significant drawback of the Draft Law. It lies in the fact that the legislator did not consider the obvious features of the regulation of the economic sphere in connection with the enormous damage caused by military actions to the economy of Ukraine, having passed it in the first reading as a basis (the vote took place on January 12 2023), that is, on the tenth month of the heroic fight of the Ukrainian people with the Russian invaders.

## 2.2. Analytical and Legal Review of the Ukrainian Legislation on Economic Relations

Developing a professional discussion around the Economic Code of Ukraine, it is necessary, in our opinion, to dissociate ourselves from all scientific schools and focus on the state interest because the priority tasks for any legislative activity is to completely satisfy the demands of society in effective and transparent legal acts that would serve as effective tools in the processes of regulating the relevant spheres of life. Moreover, the provisions of the Constitution of Ukraine recognize a person as the highest social value, and the state is responsible for the results of its activities, according to Article 3 of the Basic Law of the state. This means that when forming, changing or improving legislation, it is necessary to ensure a balance between private and public interest, which is another argument in the discourse on the prevailing importance of civil law. As is known, the state equally protects the right of state, communal, and private property.

At the same time, revealing the content of this part of the article, we turn to the commented Draft Law of Ukraine, which is supposed to recognize the Economic Code of Ukraine as invalid. We refer to the key terms of the document and consider it appropriate to analyze the semantic meaning of individual categories. Defining the task of recodification (renewal) of civil legislation, the authors of the Draft Law use terms that by their semantic meaning lead to conclusions opposite to those laid down in the analyzed document. Supporting “the need for a comprehensive settlement of the problem of the legal status of enterprises, as well as the property basis for ensuring entrepreneurial activity”, the authors of the Draft Law provide for the following:

- the implementation of the best corporate governance practices in the legislation of Ukraine, in particular in terms of determining the duties of officials of legal entities;
- the implementation of effective and market mechanisms for controlling the ownership and management of objects of state and communal property by newly formed organisations and institutions in the civil legislation of Ukraine.

The logical and semantic analysis of the term “implementation” is carrying out international obligations at the domestic level, as well as a specific way of incorporating international legal norms into the national legal system (Lukianiuk 2023). So, based on the semantic meaning of the term “implementation”, it is possible to conclude that legislative activity should contain a component of the creation, development and improvement of existing legislation by including certain international legal norms in domestic legislation, that is, not the abolition of existing laws, but their addition to the domestic legal system.

Meanwhile, when formulating the tasks of updating civil legislation, the legislator makes a logical mistake, namely: speaking about the creation, development and improvement of the law, the legislator proposes to recognize that law as invalid (Derevianko 2021). Such approaches are unacceptable from the point of view of law-making techniques. This study would not have been complete if the opposite point of views were not analysed. This concerns ways to improve the economic law of Ukraine, which is summarized in the Concept of modernization of the economic legislation of Ukraine (n.d.). Meanwhile, it is essential to pay attention to the fact that this document, which was developed by business scientists in 2019, has not been widely circulated, and its provisions are covered only in the scholarly works. In order to justify the need to improve economic legislation, the authors of the Concept consider the following main factors:

- currently, more than 300 basic laws operate with the terminology from the Civil Code of Ukraine (for example, entity, economic activity, etc.) and contain norms that directly correspond to the provisions of the Civil Code of Ukraine; more than 40 basic laws contain a direct reference to the Civil Code of Ukraine;
- there is a positive experience of European countries where economic (commercial, entrepreneurial, trade) codes are adopted;
- there is a need to adapt the economic legislation of Ukraine to the EU law and improve national legislation in accordance with the obligations defined by the Association Agreement with the EU;
- there is a need to increase Ukraine’s position in the World Bank’s “Doing Business” rating, among the indicators of which stability and modernization of economic legislation are taken into account, etc.

At the same time, the authors insist on maintaining codification as the most effective form of regulation of legal relations in the economic sphere. Assessing the importance of this document, it should be noted that during the Russian-Ukrainian war, it is especially important to prevent chaos and violation of established norms of economic activity because such a radical change in the systemic foundations of entrepreneurship can demonstrate the opposite effect, which could result in additional damages to the economy. Due to the fact that the proposals of the authors of the Concept to improve the current economic legislation are soft tools for influencing the business environment, the introduction of changes and amendments, taking into account the martial law, will receive a positive response from business entities.

The authors’ selective monitoring of the legislative framework of the European Union countries showed that legal relations in the economic (entrepreneurial) sphere are regulated by sectoral codified acts. The list of such countries includes Austria, Belgium, Estonia, Latvia, Spain, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Germany, Portugal, Slovakia, France and the Czech Republic, where commercial or economic codes operate. It should be noted that in Germany, paragraph 11 of Article 74 of the Constitution of the Federal Republic of Germany “Economic law” is attributed to the areas covered by legislative competence. Therefore, it is necessary to state that under the conditions of martial law the liquidation of the Economic Code of Ukraine is inappropriate and will cause harm to the legal system of Ukraine.

### 3. Discussions

Domestic legal scholars have been working on the problems of improving economic legislation for more than thirty years, participating in the development of the first legislative acts (decrees). They are Dzhabrailov, Malolitneva, and Hudima (2018), Zadykhailo (2012), Poliukhovych (2019), Derevianko (2021), Sakhatskyi (2006), Hryhorchuk (2016), Ustymenko (2021), Mamutov (2004), Pobirchenko, etc. Despite the fact that the researchers held different views on the content, structure and form of the codified act in the field of economy, their contribution to the development of the sphere of regulatory and legal support of economic activity cannot be exaggerated.

However, within the scope of this article, we are guided by the well-known legal positions of scholars of different time periods of Ukraine's independence since there is a wide scope of scientific knowledge. We were forced to distance ourselves from the assessments of scientific and legal work due to the fact that the above information reflects opposite points of view on the situation in the field of regulatory support for economic activity. We will refer to the achievements of some of these researchers in this article as the basis for justifying the authors' conclusions. Therefore, it is advisable to make reasoned arguments that indicate the impossibility of levelling the special status of the participation of a citizen in the entrepreneurial sphere. To this end, we resort to the scientific heritage of well-known Ukrainian legal scholars in the field of economic law.

Thus, Zadykhailo (2012) notes that the chronology of the development of economic law has its historical roots. In such well-known codes of ancient laws as Justinian's Code, "Ruska Pravda", the Lithuanian Statute, there are some provisions concerning the joint conduct of trade affairs, the liability of debtors to creditors, bankruptcy, etc. Hence, it is possible to conclude that economic law, although it arose after the formalization of civil law, has its own genesis, the process of its formation and development is traced. Therefore, the opinion of some scientists that economic law is an artificial branch of law, which duplicates the norms of other laws is erroneous.

We agree with the opinion that economic law has its roots in public law, that is, it uses terms and categories inherent in ancient, codified norms to establish intra-sectoral relations. Such knowledge gives the researcher the right to conclude that economic law is part of general public law. On this basis, an indisputable conclusion can be drawn that the root of economic law is public law (Hryhorchuk 2016). Moreover, in the article "Problems of modernization of economic legislation", Dzhabrailov, Malolitneva, and Hudima (2018) believe that the expediency of amending the Economic Code of Ukraine should be determined not only by the fact of preparing a separate law that will regulate economic relations, but also by the results of a preliminary analysis of its regulatory impact on the sphere of economic relations.

Furthermore, Sakhatskyi (2006) claims that the main sphere of modernization is the system of economic legislation, which should be carried out in the following directions: the adaptation of national legislation to the European law; the stimulation of integration processes; the improvement of state control; the improvement of product quality; the development of technical and technological systems; the wide introduction of innovative technologies; fair trade; the promotion of competition and others.

Poliukhovych (2019), examining the issue of recodification of economic legislation, notes that if we resort to foreign experience, the separation of economic, commercial, entrepreneurial relations from the sphere of civil regulation into a separate branch of regulation has a long history and was implemented both at the theoretical level by substantiating the doctrine of dualism of private law, and in practice by adopting a number of commercial and economic codes in continental countries of Europe.

Apart from that, carrying out a detailed analysis of the scientific and practical situation around the question of the abolition of the Economic Code of Ukraine, the authors consider it appropriate to voice the official position of almost all scientists listed among those who conduct scientific activities in the field of economic law. In this regard, we present certain provisions from the Scientific Expert Opinion to the Concept of Updating the Civil Code of Ukraine (Ustymenko 2021).

Considering the composition of the Coordination Bureau on the legal foundations of entrepreneurial activity, economic and commercial law of the Department of Environmental, Economic and Agrarian Law of the National Academy of Legal Sciences of Ukraine (Ustymenko, Bobkova, Shcherbyna, Vinnik, Zadikhaylo, Podtserkovnyi, Dzhabrailov, Zeldina, Shapovalova and others), it is impossible to disagree with their arguments regarding procedural violations when presenting the Concept. Among the most significant ones are the following:

- The Concept has the character of the scientific opinion of individual scientists who have not passed scientific peer review, and the proposals for the abolition of the Civil Code of Ukraine contained in the text of the Concept were not discussed by the Working Group in the prescribed manner, and representatives of ministries and other central executive bodies were not involved in the analysis of the prospects for its implementation;

- The concept has not been submitted to the Verkhovna Rada of Ukraine and has not been approved by it, and therefore cannot be considered a conceptual basis for the adoption of any draft laws;
- further discussions on the Concept takes place within the framework of the Working Group whose activities are not properly legitimized;
- the idea of abolishing the Civil Code of Ukraine, proposed by the Working Group created by order of the Chairman of the Verkhovna Rada of Ukraine of 28.07.2020 No. 260, contradicts paragraph 21 of the Plan of legislative work of the Verkhovna Rada of Ukraine for 2020, which provided only for the transfer of certain provisions of the Economic Code of Ukraine to the Civil Code of Ukraine.

## Conclusions

Understanding the social significance of economic law is crucial when it comes to the question of the very existence of the Economic Code of Ukraine. However, given the status of the authors of the Draft Law of Ukraine, which proposes to abolish the Economic Code of Ukraine, this document will still be voted on in the Verkhovna Rada of Ukraine, and therefore this code will expire. It is possible to make legal predictions about the results of such activities, but only history will determine whether such a decision was correct or erroneous.

The material presented in the article demonstrates the real state of affairs in the process of the elimination of economic law of Ukraine as a branch of law. The published scientific positions, having a narrow sectoral character, affect almost all social relations since the sphere of economic activity is part of the general social process. That is why the decision to abolish the Economic Code of Ukraine will be fateful for all participants in the economic sphere, since the Draft Law of Ukraine "On the specifics of regulation of business activities of certain types of legal entities and their associations in the transition period" does not resolve a number of issues that will inevitably arise when applying more than 400 regulatory legal acts that directly or indirectly regulate legal relations of a commercial nature.

At the same time, considering the new socio-economic challenges associated with hostilities, lawyers do not stop working on improving economic legislation. We are convinced that this article will have a double effect. On the one hand, we presented a warning about the inexpediency of radical changes in approaches to organizing legal support of the economic sphere. On the other hand, it is proposed to implement primary measures to prevent chaos in the business environment during the heroic defence of the Ukrainian state from Russian invaders.

The selective logical-right monitoring of international legislation showed that in most European countries the issues of entrepreneurship and the sphere of management as a whole are regulated by separate codified acts. It is for these reasons that we call for a revision of scientific positions in approaches to assessing the role and importance of economic law in the system of law of Ukraine. We believe that the path to reforming economic law in the conditions of Russian aggression, chosen by individual scientists who are not experts in economic law, leads to the destruction of economic law as an area of the Ukrainian law. Such actions can have unpredictable consequences in terms of the impact on the economic situation in Ukraine.

## Credit Authorship Contribution Statement

**Anatolii Y. Shevchenko:** write the contribution of first author choosing the relevant actions, but not limited to: Conceptualization, Investigation, Methodology, Project administration, Software, Formal analysis, Writing – original draft, Supervision, Data curation, Validation, Writing – review and editing, Visualization, Funding acquisition.

**Serhiy M. Vykhryst:** write the contribution of the second author choosing the relevant actions, but not limited to: Conceptualization, Investigation, Methodology, Project administration, Software, Formal analysis, Writing – original draft, Supervision, Data curation, Validation, Writing – review and editing, Visualization, Funding acquisition.

**Iuliia Ostapenko:** write the contribution of the third author choosing the relevant actions, but not limited to: Conceptualization, Investigation, Methodology, Project administration, Software, Formal analysis, Writing – original draft, Supervision, Data curation, Validation, Writing – review and editing, Visualization, Funding acquisition.

**Svitlana V. Bobrovnyk:** write the contribution of the fourth author choosing the relevant actions, but not limited to: Conceptualization, Investigation, Methodology, Project administration, Software, Formal analysis, Writing – original draft, Supervision, Data curation, Validation, Writing – review and editing, Visualization, Funding acquisition.

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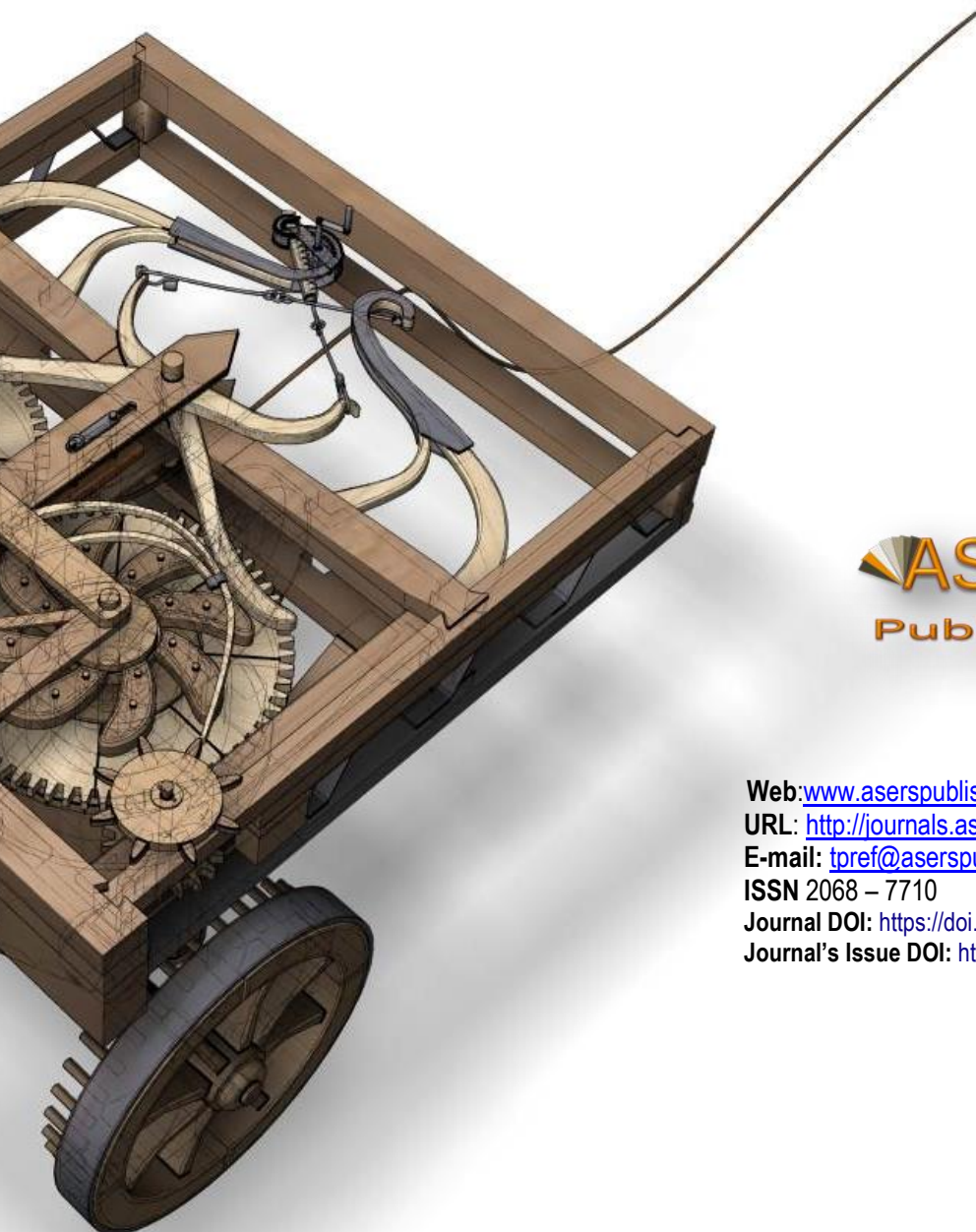
#### Declaration of Competing Interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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