

Who Watches the Trustee? Rethinking Bankruptcy Trustee Liability in Ukraine and Worldwide



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Abstract: This paper examines the legal processes that can be applied to the liability of bankruptcy of trustees in international practice. It is relevant because it is necessary to protect the rights of the parties on insolvency procedures, increase transparency, avoid abuse, and align the Ukrainian legislation with the international standards. A comparative legal approach is used to analyze the regulation of the liability of bankruptcy trustees in the USA, Germany, France, Sweden and the UK. The research is found on law, case law and scholarly studies. The comparison is conducted based on the main criteria: the qualification criteria, supervision, civil and criminal liability, insurance and disciplinary measures. Four primary types of liability were outlined, and they include administrative, judicial, self-regulatory and hybrid. They are both good and bad in their respects of accountability, effectiveness and transparency. The most balanced is the hybrid model, which combines state supervision, judicial oversight and professional self-regulation. A multi-tiered accountability system is proposed, comprising institutional, judicial, professional, financial and digital components. Effective accountability for bankruptcy trustees is achieved through the interaction of various control mechanisms, rather than within a single model. The proposed hybrid concept promotes greater transparency and trust in the bankruptcy system and can be used to improve Ukrainian legislation in line with international standards.

Keywords: insolvency; bankruptcy trustee; liability; insolvency law; creditor protection; Ukrainian insolvency reform.

JEL Classification: G33; K41; K13; A12.

Introduction

In today's economic environment, the legal institution of bankruptcy has to solve several tasks, in which the activities of bankruptcy trustees play an important role. They link the debtor, creditors, and the court. The actions of bankruptcy trustees determine the debtor's future fate. By initiating bankruptcy proceedings, the court, as a public authority, interferes with private business relations. This is due to the need to protect the economic relations of the debtor's insolvency, as a result. Without this intervention, in the event of a business entity's bankruptcy, it is impossible to foresee all the most important social consequences that will arise between the insolvent debtor and other business entities. Thus, a private interest in insolvency relations becomes a public interest (Popko 2023). In other words, the court and the bankruptcy trustee become the state authority or public controlling body in the bankruptcy procedure. The bankruptcy trustee, with the help of the control and supervisory functions granted to someone in the management and disposal of the debtor's property, is entrusted with the obligation to reconcile the interests of creditors and the insolvent debtor to further satisfy in full the creditors' claims and, as far as possible, prevent unnecessary losses and economic destruction of the debtor as a production unit.

The relevance of the study lies in the protection of the rights and interests of the parties to the process, since bankruptcy trustees play an important role in bankruptcy and solvency restoration procedures. Their actions and decisions determine the effectiveness of the protection of the rights of creditors, debtors, and other stakeholders. By controlling their liability, one can guarantee the transparency and fairness of the process and prevent corruption and abuse, as well as enhance trust in the system of insolvency. Harmonizing national legal systems is helped by the study of international experience and standards for regulating the liability of bankruptcy trustees. This, in turn, streamlines international business and promotes a more efficient cooperation of countries. The setting of clear standards improves work quality and standards. It provides stability and legal certainty, which is essential in attracting investment and promoting economic development. Moreover, efficient insolvency management and dispute resolution on transnational economies requires international regulation, which also fosters international cooperation on insolvency.

Although there is an increasing amount of comparative insolvency scholarships, there still exists a considerable research gap in the systematic study of the liability of bankruptcy trustees under varying regulatory frameworks. In literature, there is the tendency to concentrate on either a single jurisdiction or a particular area of liability e.g. remuneration, professional status or the role of procedures. Nonetheless, an analytical framework of how various accountability mechanisms interact both within and across legal systems is lacking. Specifically, the lack of a coherent cross-model treatment of bankruptcy trustees' liability, the lack of integration of new governance instruments, such as digital instruments of transparency and risk-monitoring technologies, have received an insufficient amount of attention.

In order to fill this gap, this research seeks to analyze the legal procedures that regulate the liability of bankruptcy trustees in a comparative analysis and come up with a comprehensive conceptual framework that can improve accountability, transparency, and effectiveness of insolvency governance. From a theoretical standpoint, the research relies on the principal-agency theory and multi-level governance strategies and presumes that the insolvency regimes are multi-principal in the sense that the interests of creditors, debtors, courts, and the state are supposed to be reconciled with each other via the multi-layered accountability frameworks (Tirole 2019; Mysaka and Derun 2025). The hypothesis underpinning the study is that insolvency governance is a multi-principal regime involving information asymmetry and conflicting interests, as a conceptualized under principal-agent theory. In this regard, an appropriate way to regulate bankruptcy trustees is to have a multi-layered accountability framework, which is consistent with the notion of multi-layered governance, where authority is shared at the institutional, judicial, and professional levels. In order to accomplish this aim and verify the hypothesis, the research has the following objectives:

- to examine the legal frameworks governing the bankruptcy trustees' liability in some of the jurisdictions, such as the USA, Germany, France, Sweden and the UK;
- to determine and codify significant aspects of liability, such as qualification provisions, supervisory arrangements, civil and criminal liability and financial protection;
- to establish a comparative typology of bankruptcy trustees' liability models according to functional criteria;
- to assess the strengths and weaknesses of these models with regard to accountability, efficiency, and institutional design;
- to suggest a hybrid accountability framework that incorporates the most successful aspects of various regulatory strategies;
- to evaluate the consequences of this framework on legal reform, especially, European integration, and Ukrainian insolvency law.

In this paper, a conceptually integrated hybrid accountability framework that re-conceptualizes the liability of bankruptcy trustees as a multi-level governance system that integrates institutional, judicial, professional, financial and digital accountability mechanisms is developed. It also introduces a practical typology of liability regimes that can then be used to make the cross-jurisdictional comparison of the key dimensions that offer a transferable analytical tool to evaluate the insolvency regimes. Finally, the article provides the path to the reconciliation of theory and practice through the reconciliation of its framework with the EU Directive 2019/1023 (European Parliament and the Council 2019), which can be applied to the practice by policy-oriented jurisdictions during the reform.

1. Literature Review

In recent years, the idea of accountability for bankruptcy trustees has gained greater prominence in the literature on insolvency law, both in relation to institutional governance and creditor protection and the efficiency of insolvency restructuring. A number of existing studies show that the role of a bankruptcy trustee is unique, in that it has a

mixture of private professional and public supervisory functions. Consequently, the efficiency of insolvency systems is dependent on the quality of the regulatory framework, liability rules and systems of professional accountability in their work.

The legal status of the bankruptcy trustees and the bankruptcy procedures have been researched by many scholars. Kabenok (2021) was preoccupied with making sure that the trustee performs his or her duties, which is a vital measure in the bankruptcy process. This is critical to the efficiency of the process, especially with the influence of creditors committee towards appointing and dismissing trustee. Danilov (2020) researched the issues related to the practical application of the right of the insolvency trust to the timely compensation and compensation of costs that occur during the bankruptcy proceedings. Blazy and Stef (2020) examined the material of the bankruptcy proceedings, which are reviewed by the courts of three Eastern European nations Hungary, Poland, and Romania, and dwelled primarily on two key matters, which the courts have to consider whenever they are confronted with the problem of debt repayment: maximizing and distributing debtor value.

Wessels *et al.* (2009) investigated the challenges of international cooperation in bankruptcy matters across jurisdictions. Punda and Arziantseva (2023) investigated the problematic aspects of ensuring secrecy in the course of the activities of the trustee in a bankruptcy case, proposing the introduction of the category of secrecy of the bankruptcy trustees' activities and the application of appropriate legal guarantees based on the provisions relating to the activities of lawyers. While the studies add to an understanding of specific issues in the bankruptcy process, the current scholarship is fragmented and largely treats procedural and institutional issues in isolation. Earlier research focuses on specific national systems or the limited aspects of particular accountability mechanisms, such as remuneration, professional ethics or procedural competence, without providing a more comprehensive comparative framework for the assessment of accountability mechanisms in different jurisdictions.

There is also an extensive amount of academic research on the professionalization, expertise and income of bankruptcy trustees. Previous doctrinal research explored the institutional function of trustees in national insolvency regimes and bankruptcy procedure (Finch 2017; Keay and Walton 2017). Later scholarship focuses more on professional accountability, ethics, and regulatory efficiency. For instance, in common law jurisdictions, Seehaus and Peráček (2024) study the rising worries around incompetence of bankruptcy trustees, fee structures, and judicial oversight, which could otherwise lead to loss of creditor trust and fairness.

Another line of current research focuses on insolvency governance and multi-level accountability systems. Comparative legal studies conducted recently show that the current form of insolvency regime shows there are growing hybrid structures between the courts, administrative bodies, and professional self-regulatory bodies. Gurrea-Martínez (2021) states that modern insolvency systems need to be analyzed in institutional and economic governance tools and not only in the framework of traditional procedural doctrines. Likewise, Cepec *et al.* (2024) highlight the importance of institutionalized stakeholder participation and creditors' committees to enhance the outcomes of bankruptcy and accountability in the bankruptcy process. The studies suggest a more general shift from the traditional, narrowly judicial approach to insolvency law to a more holistic, governance-oriented approach.

Comparative insolvency scholarship has also focused extensively on cross-border coordination, harmonization of the insolvency law and the application of European standards on the restructuring of companies. The effects of Regulation (EU) 2015/848 (European Parliament and the Council 2015) and Directive (EU) 2019/1023 (European Parliament and the Council 2019) on the coordination of the insolvency proceedings and the professional duties of bankruptcy trustees have already been studied (McCormack *et al.* 2017). Other more recent research continues this theme, with an analysis of the special kinds of cross-border bankruptcy procedure, such as group bankruptcy trustees and the coordination of multinational restructuring proceedings (Pepels 2024). In spite of the advances of comparative insolvency scholarship, however, most of the studies have focused on the harmonization of the procedure or on a comparative analysis of individual national systems instead of a systematic comparative analysis of trustee liability regimes and accountability mechanisms among jurisdictions.

The digitalization of bankruptcy proceedings and the use of technology to improve its transparency, monitoring and efficiency are also a growing focus of research. Integration of AI, blockchain, and digital audit tools within bankruptcy procedure is a new topic of interest in scholarship. As noted by Gurrea-Martínez (2025), digital technologies can potentially lower the costs and time of bankruptcy procedure and enhance transparency and investigative powers by using automated monitoring systems and AI data analysis. Scholarship also has recently addressed the difficulties of tracing digital assets and the rules and mechanisms for crypto-assets in the modern insolvency framework, including in the context of the proposed EU Insolvency III reform (Skauradszun and Moffatt 2026). These developments illustrate how accountability in the field of insolvency law more and more is connected to not only traditional legal liability tools but also technological tools of supervision and compliance.

Although, with the amount of scholarship on bankruptcy that has emerged, there are a number of key issues left unanswered. First, such studies of bankruptcy trustees' regulation have largely focused on specific issues and not established a common analytics framework for assessing accountability systems. Secondly, there is little connection between classic insolvency law scholarship and other theories of governance, such as principal-agent theory or multi-level governance theory. Third, while digitalization and AI-assisted insolvency administration are increasingly the focus of recent studies, there has been little research to date on how technological oversight mechanisms relate to the traditional legal accountability mechanisms. Lastly, comparative studies are rarely conducted using a combination of accountability, efficiency and transparency lens of liability across multiple jurisdictions.

This article will attempt to bridge these gaps by creating a conceptually coherent comparative framework for discussing the bankruptcy trustee's liability in the United States, Germany, France, Sweden and the United Kingdom. The study develops a typology of bankruptcy trustees' accountability systems and assesses their institutional strengths and weaknesses by comparing different legal frameworks, rather than analyzing individual systems or systems of individual liability. Further, the paper reflects recent discussion on digital governance, monitoring with the help of AI and technological transparency in the general debate on the reform of insolvency governance. As such, the article makes its contribution to comparative insolvency studies as well as to the current debates on the modernization of insolvency law in Ukraine and in the European legal space.

2. Method

This paper uses a comparative legal approach to analyze how bankruptcy trustees' liability is regulated in five jurisdictions. The comparative method, which is considered to be central to the analysis of the cross-jurisdictional law, allows the identification of functional equivalents, i.e. various legal mechanisms that can be used to fulfil the same regulatory functions in different legal systems. The five jurisdictions of the USA, Germany, France, Sweden and the UK were chosen based on two factors. To begin with, they are different models of insolvency regulation: (1) the debtor-in-possession model of insolvency found in the US, subject to federal bankruptcy trustee oversight, as represented by the Department of Justice; (2) the pro-creditor model of insolvency in Germany, with strict judicial oversight; (3) the French model with specialized practitioners regulated as special professions; (4) the Second, legal frameworks are highly developed, and there is a large amount of case law and commentary in these jurisdictions, making good primary and secondary sources available.

It uses four types of materials, namely, (a) primary legislation, that is, the US Bankruptcy Code (Title 11, US Code), the German Insolvenzordnung (InsO), the French Code de commerce, the Swedish Bank The comparative study is framed by five main dimensions of responsibility of bankruptcy trustees: (1) qualification requirements and licensing; (2) oversight and supervisory mechanisms; (3) civil liability on negligence and breach of duty; (4) criminal liability on misconduct; and (5) professional liability insurance and bonding requirements. For each jurisdiction, the regulatory framework is analyzed along these dimensions, enabling systematic cross-jurisdictional comparison. The deductive method adopts common principles and norms of international law to examine specific issues related to the liability of bankruptcy trustees. Exploring this issue on the example of countries such as the USA, the UK, Germany, France, and Sweden makes it possible to compare various methods and identify best practices that can be applied in the international community.

The analytical method plays a significant role in the identification, examination and elucidation of fundamental concepts, terminology and categories. The generalization method forms the basis for the formulation of general conclusions, as well as the principles and recommendations for Ukraine. These are derived on the basis of the analysis undertaken of international legal practices (Zweigert and Kötz 1998). Consequently, this study promotes the alignment of Ukraine's national legislation with international standards to enhance the consistency and predictability of its legal framework. This strategy has been proved to improve the efficiency and transparency of the restructuring and bankruptcy procedures, as well as creating a favorable environment to attract foreign capital to invest in a country by giving confidence to all stakeholders in the insolvency process.

Introducing clear legal criteria contributes to the development of bankruptcy regulations and reduces the risk of abuse in property management processes. Consequently, it enhances the legal safeguards for creditors and debtors alike, fostering a more predictable and dependable investment climate. Moreover, international cooperation and the exchange of experience in the field of insolvency allow Ukraine to integrate advanced solutions that have proven effective in a global context. As a result, such legislative adaptation will contribute to the country's economic stability and development, opening new opportunities for investors and entrepreneurs.

3. Research Results

3.1 Theoretical Foundations and Comparative Models of Liability for Bankruptcy Trustees

The processes taking place in the modern economy are subject to state management and control, both directly and through a system of specially created public institutions that make economic processes self-regulating. This includes, in particular, the institution of regulation of procedures carried out in the process of restoring a debtor's solvency or declaring it bankrupt. This legal institution contributes to the systematic resolution of contradictions and mistakes accumulated in the business entity's activities and, to a certain extent, to the adequate protection of creditors' interests by applying transparent property management procedures and using all opportunities to restore the normal operation of the business entity to prevent its liquidation as a last resort, but necessary measure. However, the state and society have an interest in preventing all kinds of abuse in this area, so that the bankruptcy procedure does not become a tool for illicit enrichment, evasion of civil, commercial, and tax obligations, labor payment obligations, and implementation of various kinds of raider schemes (Mysaka and Derun 2025).

Theoretically, this kind of state participation may be seen as a solution to the principal-agent issues associated with insolvency proceedings, as bankruptcy trustees, being agents, might have different interests than creditors or society.

In the principal-agent framework, bankruptcy trustees are agents tasked with running the debtor's business for the benefit of many principals such as debtors, courts, creditors and the state. This gives rise to structural information, opportunism and conflicts of interest, where the trustees might have greater informational or procedural advantages than the parties whose interests they are supposed to be protecting. As a result, insolvency systems set up mechanisms of accountability to minimize agency costs through monitoring, sanctions, transparency requirements and professional standards. Concurrently, the variety of institutional configurations among jurisdictions indicates varying conceptions of institutional accountability that mark the allocation of responsibility between the state, courts and professional bodies. Based on the multi-level governance theory, the insolvency regulation can thus be seen as a multi-layered institutional control framework in which authority is spread across multiple governance levels or institutions rather than being on top of one institution (Fagetan 2025).

The introduction of supervisory and liability mechanisms is thus a way of minimizing information asymmetry and harmonizing incentives in the system. The institution of bankruptcy should be recognized as a regulated way of redistributing property in society. Bankruptcy results in the transfer of property (which is a key component, in particular, in business activities) from an inefficient owner (the debtor) to its creditors, who have legitimate claims against the debtor due to its inability to fulfil its financial obligations. The complexity of the process and the existence of a logical conflict of interest of the parties in a bankruptcy case leads to the emergence of a third independent party who essentially manages the debtor's property in bankruptcy relations (Table 1).

Thus, there are four primary models of bankruptcy trustees' liability, which represent various patterns of accountability mechanisms in jurisdictions. The first is the administrative oversight model, which is typified by the existence of a specialized public authority to oversee the activities of bankruptcy trustees and to oversee and enforce compliance. The focus of this model is on the systemic control and prophylactic supervision, as the examples of Sweden and, to some degree, the USA demonstrate. This governance model is characterized from a governance point of view as a hierarchical regulatory system that makes accountability the responsibility of a single entity, namely the state, with administrative monitoring. To rectify the principal-agent problem, there is constant external supervision, which aims to reduce the information gap and discretionary abuses (Pepels 2024).

The second model is the judicial control model, in which the courts are the key players in the appointment, oversight and where they are not, they sanction bankruptcy trustees. This is based on case-by-case evaluation and a robust judicial role, which is the case with Germany. The judicial control model is based on the logic of legality, in which rules are enforced and accountability is realized through the process of reviewing and judging. Under the principal-agent theory, courts serve as a third-party monitoring body to help resolve conflicts of interest between conflicting principals and to keep agents from falling short of their fiduciary responsibilities (Seehaus and Peráček 2024).

The third model is the professional self-regulation model whereby the recognized professional bodies are in charge of setting ethical standards, licensing requirements and disciplinary procedures. This model gives priority to professional autonomy and internal accountability mechanisms, like in the UK (Goldhahn 2023). This is a network-based governance model that uses professionalism and peer supervision to replace a lot of state involvement. It also presumes that professional associations have expert knowledge in their respective sectors, which enables them to perform well in the conduct of their profession, but at the same time, this may also lead to the risk of regulatory capture and of poor external accountability of professional associations (Cepec *et al.* 2024).

Table 1. Comparative analysis of bankruptcy trustees' regimes

Dimension	United States	Germany	France	Sweden	United Kingdom
Regulatory model	Federal executive oversight (US Trustee / DOJ)	Judicial appointment and supervision	Regulated profession with disciplinary chambers	Centralized administrative authority (Enforcement Authority)	Self-regulation by RPBs with government oversight
Qualification	Panel membership; attorney with insolvency specialization	No formal qualification; court discretion; typically, lawyer or accountant	Competitive examination; supervised practice; mandatory professional body	Licensed by Enforcement Authority; legal or accounting qualifications	RPB license; JIEB exams
Civil liability	Fiduciary duties; surcharge; personal liability for breach	Section 60 InsO: personal liability; reversed burden of proof	General fault-based liability (faute); professional guarantee funds	Personal liability for negligent administration	Negligence; breach of fiduciary duty; misfeasance proceedings
Criminal liability	Federal fraud statutes; misappropriation of estate assets	Sections 266, 283 StGB (embezzlement, bankruptcy offences)	Criminal Code provisions for professional misconduct; fraud	Penal Code provisions; theft; fraud	Fraud Act 2006; Insolvency Act 1986 offences
Insurance / bonding	Mandatory bond (Sec. 322) + professional liability insurance	Mandatory professional indemnity insurance	Mandatory insurance + professional guarantee fund	Insurance requirements set by Enforcement Authority	Mandatory professional indemnity insurance + bonding
Disciplinary sanctions	Removal by court or AG; suspension from panel	Court removal (Sec. 59 InsO); professional restrictions	Disciplinary chamber: warning to permanent ban	Removal by court; administrative sanctions	RPB sanctions: fines, conditions, licence withdrawal

Note. RPBs = recognized professional bodies; AG = Attorney General; JIEB = Joint Insolvency Examination Board; DOJ = Department of Justice.

The fourth model is the hybrid professional-judicial model that incorporates both the judicial supervision and formalized professional regulation. It is a solution that guarantees the external control, as well as the high qualification standards, which are manifested in the French system. The hybrid model is the most similar to the notion of multi-level governance as it is characterized by mixing judicial, administrative, and professional accountability mechanisms in a synchronized regulatory system. This model is not based on a single institution but is based on several actors that share supervisory power to achieve a balance between efficiency, flexibility and transparency (Fagetan 2025).

These models do not exclude each other; they are rather ideal types which can exist or even overlap in reality. Their identification offers an organized foundation to assess the efficiency of bankruptcy trustees' liability regimes and to construct integrated regulatory solutions. In theory, these models pose various institutional responses to the same governance problem- how to regulate the behavior of agents in the face of uncertainty and incomplete information (Tatham 2022). Both models emphasize the various mechanisms of control, either hierarchical (administrative), judicial or based on a network (self-regulation), which represent wider regulatory design options.

In order to go beyond descriptive comparison, the identified models can be assessed in terms of three functional criteria: (1) accountability (the possibility to identify and penalize misconduct), (2) efficiency (the possibility to provide timely and cost-effective processes) and (3) transparency (the level of openness and traceability of the actions taken by trustees). In this respect, the administrative oversight model displays a high degree of systemic responsibility and transparency as it is constantly supervised by specialized authorities, but also low in efficiency because of rigidity in procedures. The judicial control model guarantees effective legal accountability, especially on a case-by-case basis, but does not have monitoring mechanisms that can be sustained, which restricts its preventive ability. The models of professional self-regulation are rather efficient and

flexible, yet the issues of transparency and risks of regulatory capture are described. The hybrid model demonstrates the most balanced outcomes in all three criteria, but institutional complexity of this model can decrease the efficiency of operations. This analysis affirms that the effectiveness of bankruptcy trustees' liability regimes cannot be attributed to a single regulatory mechanism but to the interplay between several layers of accountability, and hence the importance of considering an integrated approach of governance (Gurrea-Martínez 2021).

Theoretically, the results show that a procedural or institutional approach to insolvency governance is not sufficient. Rather, the comparative analysis shows that bankruptcy trustee liability is a multi-dimensional governance tool which may be used to manage agency relationships in the context of complex legal and economic relationships. The distribution of monitoring powers varies significantly across different jurisdictions, according to their legal, institutional and regulatory frameworks. Thus, there is not necessarily a correlation between the strength of an institution, and a system of accountability being effective.

The comparative analysis also indicates that both regulatory models prove to have functional benefits as well as structural constraints. There is consistency and constant supervision with the administrative oversight model but there is bureaucratic inflexibility. The judicial control model offers good legal protection, but lacks the means of constant monitoring. Professional self-regulation model complements expertise and flexibility but creates conflicts of interest and lack of external accountability issues. The hybrid model is more balanced, as it integrates various mechanisms, however, complexities and coordination issues arise in institutions. Further conceptual generalisation of bankruptcy trustees' liability regimes can be based on these observations.

3.2 National Characteristics and Practices Regarding Liability Regulation

The purpose of such management is to accumulate, preserve, and, in some cases, possibly increase the debtor's property for future satisfaction of the claims of creditors to whom the debtor owes. The activities of the bankruptcy trustees are intermediary between the debtor and its creditors, are carried out on a professional basis (certain requirements are imposed for their implementation), and are based on the principles of independence, good faith, and legality. The emergence of an independent institution of administrative and legal regulation and control over the activities of bankruptcy trustees in the United States was marked by the Bankruptcy Reform Act, which transferred the responsibilities for the selection and certification of bankruptcy trustees, which had previously been carried out by the court, to a special executive body operating in different states. The aim was to remove from the courts a function that could affect their bias and shift part of the responsibility for the activities of the bankruptcy trustee to the court, which is an uncharacteristic function of the court (Tabb 2016).

In order to prevent such negative phenomena, it is required to develop a state control system over bankruptcy trustees' activities, who is the key actor in the system of legal relations in the field of bankruptcy. Furthermore, the liability of the bankruptcy trustee should be examined and monitored. The legal institution of state control over the activities of a bankruptcy trustee is important in the context of a long-term economic crisis when the social need to "reset" the economic system. It is considered more acute of effectively clearing economic relations from the burden of bad property liabilities (Kabenok 2021). In the field of insolvency and bankruptcy, the liability of bankruptcy trustees for the results of their professional activities is of particular importance. The reason for this is that bankruptcy trustees perform public legal functions related to the management and sale of assets of bankrupt companies to repay accounts payable. Not all bankruptcy trustees perform their duties in good faith when distributing the assets and money of debtors. These facts have led to numerous abuses in bankruptcy proceedings and have reduced the efficiency of bankruptcy procedures.

The study and improvement of the concept of control over the activities of the bankruptcy trustees should not be underestimated, as this allows for a broader and more complete foundation for new qualitative changes and innovations in the system of administrative and legal status of bankruptcy trustees. State control and supervision over the activities of bankruptcy trustees, as well as control and supervision in general, can be characterized as a managerial activity and as a legal phenomenon, since it is a matter of exercising the managerial functions of the state by delegating them to the relevant authorities, as well as a way of guaranteeing law and order and legality in public legal relations in the process of restoring the debtor's solvency or declaring it bankrupt.

The following methods of ensuring legality and discipline can be distinguished: control, supervision, and citizens' appeals. The above categories of ensuring legality should be viewed through the prism of control, administrative supervision, and citizens' appeals to state authorities with applications, proposals, and complaints on issues related to ensuring legality. Special legal means of ensuring legality are legal guarantees, control, supervision, coercion, appeal, encouragement, and liability (Danilov 2020). According to the last one, studying the liability of bankruptcy trustees in the US is crucial because of the complex legal system in the US and the experience

of implementing effective bankruptcy procedures that can be used as a template by other countries. This enables us to research and implement optimal methodologies to improve global benchmarks in this area.

The legislator realized that the administration of a bankruptcy case, including staffing, is an administrative function not inherent in the court, which led to such migration and crystallization of the administrative and legal institution. This opinion is fully consistent with the author's reasoning that neither the executive nor the judiciary should assume responsibility for the economic consequences of the bankruptcy trustees' work, but only control the compliance of the procedure of their activities with the legislation in the case (court) and control their activities in all cases, including complaints, compliance with qualification requirements, certification, etc. (executive branch).

The United States of America uses the institution of trust to regulate relations in insolvency cases, with the U.S. trustee being the key entity in this regard. This is a special body that administers bankruptcy cases and is part of the Department of Justice. It acts as a so-called 'bankruptcy overseer' and is designed to promote and ensure the integrity of the federal bankruptcy system on behalf of the US Attorney General. The Bureau of Federal Trustees is composed of federal bankruptcy trustees, who are employees of the federal government and are appointed by the U.S. Attorney General. Such features of the US legal system as multiple jurisdictions and a very strong judiciary have led to the emergence of a unique practice of resolving reorganization and bankruptcy cases, which is represented by the law is the Bankruptcy Code of 1979, which is included in Title 11 of the US Code of Federal Laws. As a rule, a federal bankruptcy trustee may be a lawyer who specializes in insolvency cases. The Office of the United States Trustee in Bankruptcy provides administrative oversight of the US federal bankruptcy trustees. As the court decides whether to remove a federal bankruptcy trustee from office on a case-by-case basis, the Bankruptcy Code does not contain a list of reasons for doing so. Nevertheless, the authors believe it is important to emphasize the very serious disciplinary liability that may be imposed on the federal bankruptcy trustees under the rules of their professional association (Warren and Westbrook 2014). According to Section 581, "any federal bankruptcy trustees may be removed from office by the Attorney General". Section 39 of the Judiciary and Court Procedure Act (Title 28 of the United States Code) is dedicated to federal bankruptcy trustees in the United States. In addition, each federal bankruptcy trustee is required to obtain general professional indemnity insurance and special indemnity insurance coverage for liability arising out of the administration of the debtor's bankruptcy estate.

The Attorney General has the right to review the official records, accounting, and acts of the federal bankruptcy trustees. Such oversight by the court and the US Attorney General of the operations of the federal bankruptcy trustees is a useful tool to prevent potential corruption in insolvency cases. Thus, overseeing the legitimacy of the liquidation or reorganization process is the primary responsibility of the US federal bankruptcy trustees. In addition to being covered by an insurance company, a US federal bankruptcy trustee must post a bond as collateral to ensure that the trustee will perform his/her duties in good faith. Although, in case of professional misconduct by bankruptcy trustees can have serious consequences due to the crucial role they play in the bankruptcy process. Any improper, dishonest, or illegal behavior or omission by a bankruptcy trustee to promote his or her interests or the interests of others at the expense of the debtor or creditors is considered an abuse of office.

Dishonesty is the failure to perform or obstruct the performance of the tasks assigned to the Bankruptcy trustee by the requirements of the law and bankruptcy data. A conflict of interest arises when the specific interests of the bankruptcy trustee or those with whom he/she is associated interfere with the fulfilment of his/her obligations regarding the distribution of assets or other components of the bankruptcy case. Any measures taken by the bankruptcy trustee that result in the misuse or illegal disposal of the debtor's assets are considered misuse of the debtor's assets. The following penalties may be imposed on bankruptcy trustees. He can be suspended from performing his duties in a particular bankruptcy case or even for a certain period. Financial sanctions may be imposed for violations of the rules and regulations related to his activities. In major cases, such as fraud or misappropriation of assets, criminal prosecution is pursued in accordance with the law (Finch 2017). These sanctions are aimed at protecting the interests of creditors and debtors in the bankruptcy process and ensuring compliance with strict ethical and professional standards. In addition, bankruptcy trustees may face legal consequences in both civil and criminal contexts.

In the United States, a bankruptcy trustee is required to post a bond in favor of the state, the amount of which is determined by the court, five days before being elected or officially taking office. Once his/her professional obligations are fulfilled, he/she can get his/her professional indemnity insurance bond. Regardless of the kind of wrongdoing, the bankruptcy trustee must be held civilly responsible for his/her actions without exception or limitation. However, the bankruptcy trustees do not have the resources necessary to compensate for their negligence adequately.

The two main pieces of legislation which regulate the liability of bankruptcy trustees within the EU are Regulation No 2015/848 (European Parliament and the Council 2015) and Directive 2019/1023/EU (European Parliament and the Council 2019). The Directive is essential to the development of regulations designed to guarantee a successful restructuring and bankruptcy process within the EU. This legal document outlines the responsibilities of bankruptcy trustees and emphasizes the critical role they play in restructuring. They might be in charge of managing the debtor's assets or carrying out the plan. He/she should perform his/her duties with diligence and professionalism. In an opposite case, he/she could be held legally responsible for any harm brought on by his/her carelessness or incapacity to do so (Keay and Walton 2017).

The framework of cross-border insolvency proceeding is formed by the insolvency regulation (EU) No 2015/848 that establishes the jurisdiction of bankruptcy trustees in relation to the international cases. It is possible for a bankruptcy judgment issued in one EU country to be accepted in the other one (European Parliament and the Council 2015). The legislation also delineates the coordination procedures between bankruptcy trustees of EU countries to promote a smooth and effective cooperative experience and a unified reaction to cross-border bankruptcy actions by sharing information, cooperation, and confirming the decision made by other bankruptcy trustees. Directive 2019/1023/EU and Regulation (EU) No. 2015/848 provide that the bankruptcy trustees shall be professionally, conscientiously and transparently acting in the interests of the debtor and creditors without conflict of interest (European Parliament and the Council 2015, 2019). If they neglect or break their duties, they are legally liable and obliged to compensate for the damage caused. Due to the differences in legal frameworks and economic situations, a study of bankruptcy trustees' liability in Germany, France, Sweden, and the UK is crucial to weigh the advantages and disadvantages of different restructuring and insolvency models (McCormack *et al.* 2017).

In contrast to the economic and legal approach used in the US, the concept of German bankruptcy law (Insolvenzordnung) as of 01.12.1999 has a clear pro-creditor orientation. The priority of this system is to safeguard the interests of creditors to the fullest extent possible. The material basis of the debtor's liability is its property, which must be preserved and maximized in the interests of all its creditors. In other words, the features of the pro-creditor model are the prevalence of the liquidation procedure over the rehabilitation procedure and the satisfaction of creditors' claims from the debtor's bankruptcy estate. The main reason is that the working capital of business entities in European countries was formed at the expense of debt obligations (commodity and financial lending). To protect investment projects, taking into account the public interest, the state authorities formulate bankruptcy legislation based on the need to provide, first and foremost, effective guarantees to creditors that stimulate the development of economic turnover in the country (Kristóf and Virág 2020).

Therefore, the debtor's inability to settle accounts with creditors is a consequence of its insolvency and the debtor's insufficient property to cover the amount of its creditor obligations. Accordingly, the first task of the bankruptcy trustee is to open bankruptcy proceedings and satisfy creditors' claims, rather than to take measures to restore the debtor's solvency. For example, the initiation of bankruptcy proceedings under German bankruptcy law generally means the removal of the debtor from management and disposal of property with the transfer of rights to the interim manager, and the transition to a rehabilitation procedure is possible only with the consent of the creditors. As in many other countries, Germany has special legal provisions governing the activities of bankruptcy trustees to protect them from liability for their professional conduct and to ensure the smooth operation of the bankruptcy and reorganization system.

The basic legislative act in the area of activity of bankruptcy trustees in Germany is called the Insolvency and Claims Act (Insolvenzordnung, or INSO). It also encompasses major rules of the duties, rights, and obligations of bankruptcy trustees, developed by the International Non-Governmental Security Organisation (INSO) (Paulus 2016). These involve the qualifications of bankruptcy trustees, the process of dismissing or replacing them and measures put in place to ensure impartiality and independence. They can be in charge of handling the asset of the debtor, creating a reorganizing or liquidation program, as well as settling debts with creditors. The INSO also provides mechanisms of holding bankruptcy trustees liable in their careless performance of their duties. Trustees in bankruptcy who breach or ignore their duties stand the risk of losing their ability to perform their duties and punishment. Criminal charges can be filed in certain circumstances. The court and the special insolvency agencies can oversee and regulate their actions. This includes evaluating their performance and, where required, assigning or removing staff. Furthermore, the legislative framework controlling the responsibility of bankruptcy trustees in Germany is meant to defend the interests of creditors, guaranteeing the proper and transparent administration of insolvency procedures as well as adherence to applicable professional and legal standards (Bork 2012).

Furthermore, bankruptcy trustees' actions in France are governed by laws that specify their responsibilities, rights, and duties. The Code de Procédure Civile and the Code of Commerce are the main legislation that rule the activities of French bankruptcy trustees. Thus, under French law, bankruptcy trustees are subject to a number of

duties. These duties include managing the debtor's assets, creating a plan for liquidation or reorganization, safeguarding the debtor's property, and other duties (Menjucq 2011). Their status is established and their professional affiliation is maintained by the legal framework that governs bankruptcy trustees in France. Their profession is considered a separate industry under the current labour laws. The French approach to bankruptcy administration mechanisms has come under scrutiny due to the appointment of a bankruptcy trustee during rehabilitation procedures, a liquidator during liquidation procedures, and a bankruptcy trustee designated after bankruptcy proceedings began.

Bankruptcy trustees are overseen by the French judiciary and the special bodies that handle insolvency. They are charged with the responsibility of overseeing and, in an appropriate case, intervening in cases of any malpractice by bankruptcy trustees. The French judicial system and special insolvency authorities closely supervise them. An example of this is the *Affaire Bernard Tapie* case whereby the court conducted an extensive investigation and then did what was required after it discovered a potential conflict of interest in the affairs of the bankruptcy trustee. The court imposed financial fines on him in the *Affaire France Telecom* case. Consequently, the trustee was not allowed to participate in the process anymore. The sphere is marked by rigid control that ensures that bankruptcy trustees within the framework of the law observe the law and research any potential breaches to the full extent. If any violations occur, they might not be able to carry out their responsibilities and could be subject to fines or even legal action.

It is the responsibility of the Swedish Insolvency Authority to function under the joint legal jurisdiction of the Ministry of Justice and the Ministry of Finance. The aforementioned authority is to be regarded as a unified system with the tax and enforcement authorities. This organization is responsible for the oversight and administration of bankruptcy procedures, with offices strategically located in all provinces nationwide. The following powers are attributed to it:

- to develop and control the implementation of state policy on bankruptcy;
- to advise courts dealing;
- to train, license and advise bankruptcy trustees;
- to advise creditors;
- to control the level of remuneration of bankruptcy trustees, additional payment for the services of these specialists in case of lack of resources of the debtor company;
- to monitor the observance of the interests of secured creditors;
- to publish information on the recognition of companies as bankrupt.

Special legal regulations apply to the activities of bankruptcy trustees in Sweden to ensure their liability for professional actions in insolvency cases. The primary laws that govern the operations of bankruptcy trustees in Sweden are the Bankruptcy Act and the Companies in Bankruptcy Act. The law and the highest professional ethical standards require bankruptcy trustees to fulfil their responsibilities. They can be held accountable if they fulfil their duties inappropriately, for example by misusing their position or mishandling the debtor's assets. In Sweden, bankruptcy trustees who violate the law risk severe repercussions, including being barred from carrying out their responsibilities, being fined, and, in the most extreme cases, facing legal action. For example, the court decided that the bankruptcy trustee could not work as one and also made him pay money in the *Hemfosa* case. This was after he was accused of money fraud and not looking after company property (Voda *et al.* 2021).

The oversight of bankruptcy proceedings and the supervision of bankruptcy trustees is the responsibility of judges and special commissions. In an effort to ensure that both ethical and legal standards are being met, the aforementioned bodies take action in this regard. Within the jurisdiction of Sweden, the judiciary, in conjunction with specially appointed committees, maintains rigorous oversight of bankruptcy trustees. For instance, the Swedish Enforcement Authority exercises oversight with regard to the actions of bankruptcy trustees. In instances of insolvency, audits and inspections are conducted to ensure that moral standards and legal requirements are being met. Following allegations of theft, the Swedish Enforcement Authority conducted a thorough investigation and penalized a bankruptcy trustee. This scrutiny contributes to the public's faith in bankruptcy trustees and the high professional standards that exist inside the Swedish bankruptcy system (Epaulard and Zapha 2022).

Criminal proceedings were initiated in the *Göta* case after the bankruptcy trustee was accused of wrongdoing and misusing private information. As a consequence, he was prohibited from undertaking the work in the future. This strict policy against misbehaviour ensures that bankruptcy trustees in Sweden behave in a way that complies with the law and ethical norms. Protecting creditors' interests, maintaining the stability of the financial system, and ensuring the effectiveness and integrity of bankruptcy trustees are the main objectives of the Swedish legal system, which regulates their accountability.

Based on the idea of self-regulation, the Institute of Insolvency Practitioners (IIP) is a UK-based organization. The interests of the stakeholders, which could include the debtor or their creditors, are represented by bankruptcy trustees, who are hired under contract. Moreover, in situations when the business cannot afford the costs of legal counsel or the costs of court proceedings, the court has the power to order the appointment of a bankruptcy trustee. The authority to supervise insolvency procedures is granted to the Insolvency Service, a government agency having operations in the UK. The Department for Business, Energy, and Industrial Strategy of the UK government oversees the Insolvency Service, an executive agency. To perform its duties, the Service engages bankruptcy trustees, including those appointed by the court, who have the status of public servants. The legislative basis for their activities in England and Wales is provided by the Companies Act 1985, the Company Directors Disqualification Act 1986, and the Insolvency Act 1986, which also defines the liability of practitioners for breach of duty. In the event of improper performance of duties, in particular mismanagement of the debtor's assets or creation of a conflict of interest, legal liability arises. The British insolvency system is characterized by a high level of accountability to the parties to the proceedings and to society, as the actions of bankruptcy trustees have a significant impact on the outcome of proceedings for creditors and debtors (Ayotte and Ellias 2022).

In this regard, in the case of Carillion, the bankruptcy trustees were accused of negligent asset management, which caused losses to creditors and employees. As a result, the court-imposed fines and restricted their further work. Moreover, in the Patisserie Valerie case, the court intervened owing to a conflict of interest on the part of the bankruptcy trustees. In the UK, the Insolvency Service supervised the activities of the trustees due to possible conflicts of interest and doubts about the effectiveness of management in the case of Steel. These examples confirm the need for strict compliance with the rules by bankruptcy trustees and the key role of supervisory authorities in building trust in the insolvency system and maintaining high professional standards (Melcarne and Ramello 2020).

3.3 Hybrid Accountability Framework for Bankruptcy Trustees

The suggested hybrid accountability framework is a practical application of the theoretical concepts of the principal-agent theory and multi-level government. The basic intention from the principal-agent point of view is to alleviate the information gap, issues of conflict of interest and opportunistic behavior through the use of overlapping instruments of supervision, liability, and transparency. At the same time, the framework is based on the principle of multi-level governance and decentralizes regulatory responsibility between different institutional, judicial, professional, financial and technological levels. The concept of accountability, in this sense, is not a legal measure, but, rather, an integrated governance process in which a number of actors and control mechanisms are interacting.

Following the comparative analysis, it is appropriate to propose an integrated model of accountability for bankruptcy trustees, which combines the most effective elements of various legal systems. This model is based on the idea that no single system (state, judicial or self-regulatory) provides a sufficient level of accountability, and therefore a combination of these is optimal (Figure 1).

Figure 1. Hybrid accountability framework for bankruptcy trustees



Source: developed by the authors

The proposed framework provides for a multi-tiered accountability system comprising five interrelated components. The initial element is institutional control. It establishes the presence of a specialized state supervisory body which constantly oversees the work of bankruptcy trustees, holds inspections and analyses complaints as well as having the authority to impose penalties. This aspect is a hybrid of the American and Swedish models and is geared towards providing some degree of systematic control, as opposed to reacting to violations. The second element is judicial checks and balances. The court is the ultimate enforcer of legality of a particular bankruptcy case. It appoints, replaces and removes bankruptcy trustees and evaluates the legality of their behavior. Such control guarantees individualized control, and is typical of civil law systems, especially those of Germany and France. Professional self-regulation is the third constituent. This is in the form of the functioning of professional bodies that establish ethics, conduct disciplinary action, and offer professional development. This model is grounded in the British one and assists in development of the professional culture and personal responsibility. The fourth element is the financial liability mechanisms. This is mandatory professional indemnity insurance, guarantee funds, and other financial instruments which can guarantee effective compensation to the creditors or debtors in the event of unlawful actions. This factor is critical to the real-world performance of the whole system. The fifth element is online accountability and technological accountability. It implies the application of the latest technologies, such as electronic registers, computerized auditing, and, possibly, blockchain systems of tracking asset transactions. This helps to minimize abuse and boost confidence in bankruptcy procedures.

The proposed model functions as a system of checks and balances, in which each component compensates for the weaknesses of the others. State oversight ensures systematic control, the judicial system ensures individual justice, self-regulation ensures professional ethics, financial mechanisms ensure real accountability, and digital tools ensure transparency and the prevention of violations. This establishes the fact that the bankruptcy trustees' liability is not to be conceptualized as a fixed legal institution, but rather as a system of governance whereby various actors of regulation are involved. This comprehension is connected to the multi-level governance theory where power is shared and spread across various levels instead of being centralized within one institution (Schakel *et al.* 2015).

4. Discussions

The findings of this study show that the liability of bankruptcy trustees cannot effectively be dealt with in one regulatory framework that justifies the suppositions of both the principal-agent theory and the multi-level governance. Specifically, the fact that several principals are involved and the interests may conflict makes it necessary to use overlapping accountability mechanisms that cut across institutional levels (Tirole 2019). This supports the main theoretical hypothesis that insolvency governance is a multi-principal system in which the conflicting interests of creditors, debtors, courts and the general populace require a multi-layered and multi-balanced structure of accountability.

These results could be further explained in the framework of multi-level governance, in which the liability of bankruptcy trustee is not determined by one institutional level but is created as a result of several layers of regulations interacting with each other. Accountability, in this sense, should be viewed as a system property, not as a mechanism role, which supports the thesis that the efficient governing of insolvency needs to be a coordinated and overlapping form of control.

In further analysis of these models, it is noted that they have trade-offs, inherent in their institutional design. Administrative oversight model provides a high degree of systemic consistency and ongoing monitoring by means of participation of specialized public authorities. It is strong in its ability to prevent misconduct in advance and to unify the practice of regulation across cases. Meanwhile, such a model is likely to become bureaucratized, less flexible, and be susceptible to over-centralization, potentially restricting its responsiveness to case-sensitive and complex situations. Judicial control, in contrast, gives good procedural protection and legal responsibility by adjudicating cases on a case-by-case basis. Judiciary is very significant in ensuring justice and legitimacy, especially when it comes to bankruptcy trustees. Nevertheless, the fact that the model is based on reactive enforcement restricts its potential in ensuring sustained supervision, and the dispersal of oversight and differences in judicial expertise can decrease the overall effectiveness of the regulations.

Professional self-regulation model encourages high expertise, ethical standard-setting, and flexibility by involving professional bodies. Such a strategy is more flexible and less of a burden on state administration. However, it also brings up the issue of regulatory capture, conflict of interest, and lack of external control especially when the regulatory mechanisms are poorly developed or underdeveloped. The hybrid model of a professional and judicial is aimed at resolving these tensions and proposing judicial control and professional control in a structured form. Its main strength is that it provides several accountability systems, which can be controlled externally and

professionally internally (Los 2025). Such complexity, though, can create coordination problems, overlapping competences, and higher administrative costs, and overall effectiveness will be determined by how well institutional roles are defined and inter-agency cooperation is effective. These results indicate that no single model can be used to fully deal with the multidimensionality of bankruptcy trustees' liability. Both methods represent a trade-off between conflicting goals of regulation, such as efficiency, accountability, flexibility, and transparency. This supports the fact that a more integrated and adaptive approach to insolvency governance is required (Punda and Arziantseva 2023).

To address such structural constraints, the proposed hybrid accountability framework is an attempt to combine the main aspects of each model into a consistent model of governance. What added value to it is that it is not just the combination of regulatory mechanisms, but also the reinvention of accountability as a dynamic and interactive process as opposed to a fixed legal obligation. In this regard, the framework is consistent with the modern theory of regulation, which focuses on multi-level governance, regulation through networks, and the interplay of formal and informal systems of enforcement.

This approach also has certain policy implications that are especially pertinent to jurisdictions that are being reformed in law. To begin with, the creation or reinforcement of a specialized insolvency oversight institution can play a crucial role in improving systemic surveillance and minimizing the likelihood of wrongdoing (Tatham 2022). Nonetheless, there must be procedural checks and balances to such institutionalization to guard against over-centralization and promote transparency. Second, the court should be maintained as providing a foundation of legal accountability, especially with regards to appointment, removal and dispute resolution of bankruptcy trustees. Third, it is advisable to promote the emergence of professional self-regulatory organizations, but with effective external control to reduce the risks of corporatism and conflict of interests.

The use of financial liability mechanisms, such as mandatory professional indemnity insurance and guarantee funds is a major component of the proposed framework. These tools are critical in making sure that compensation is effective and the trust between stakeholders is improved (Qi and Yuan 2023). In addition, the introduction of digital technologies, such as electronic case management systems, automated auditing tools, and distributed ledger technologies have an enormous potential of improving transparency, traceability, and effectiveness in the insolvency proceedings. Even though the introduction of such technologies raises questions about the protection of data and the ability of regulatory capacity, the benefits of such technologies in the long-term render the usage of such technologies worth considering. Interestingly, as the digital tools are implemented, the definition of accountability changes to ex post enforcement to ex ante monitoring. Automated auditing systems and distributed ledgers are the technologies that can allow tracking trustee activities on a regular basis to minimize the information asymmetry and restrict the possibility of wrongful acts. This changes the regulatory paradigm to preventive control as opposed to the reactive control and enhances transparency and institutional trust (Butler *et al.* 2023).

Recent technological advances, including blockchain and AI, have great potential to increase transparency and improve the handling of insolvency procedures. The application of artificial intelligence algorithms will enable bankruptcy trustees to react to insolvency cases more promptly. The automated financial statement analysis capability allows detecting risks and vulnerabilities to creditors in real time. Another way that blockchain technology could be used is the development of a reliable and secure asset-registering and tracking system in the process of bankruptcy. The very feature of blockchain technology that makes the data unchangeable makes it an ideal solution to the asset and distribution tracking in the context of a bankruptcy procedure. The use of blockchain technology for the storage of unique documents and transactions facilitates the resolution of disputes during the bankruptcy process and instils a greater sense of confidence in the data among the relevant parties. By implementing these measures, financial stability will be restored, and participant rights will be protected, thereby enhancing the reliability, transparency and efficiency of the bankruptcy process (Panchenko 2021).

Regarding European legal integration, the suggested framework can be aligned to the goals and values of EU insolvency law. Specifically, the Directive (EU) 2019/1023 underlines the competence, independence, and accountability of trustees in preventive restructuring and insolvency practices (European Parliament and the Council 2019). Likewise, the Regulation (EU) 2015/848 offers the framework of cross-border cooperation and coordination, which indirectly strengthens the necessity of the reliable and responsible bankruptcy trustees (European Parliament and the Council 2015). Nonetheless, the two tools give a lot of discretion to the Member States in the development of specific liability regimes, which leads to further fragmentation at the national level.

The hybrid accountability framework can be used in this regard as a conceptual framework to enhance convergence without necessarily harmonizing. The framework enables the national reforms to be compatible with the wider European standards without removing institutional diversity by identifying the core accountability elements that are functionally similar across various legal regimes. In the case of Ukraine that is seeking closer integration

into the European legal space, this would be a viable route towards modernization of the insolvency laws in accordance with the EU principles and international best practices. Meanwhile, it is necessary to note the shortcomings of the suggested framework. It involves a lot of institutional capacity, coordination of various regulatory actors and provision of financial and technological resources. In addition, the model is subject to the larger legal culture and enforcement practices, which can be significantly different across jurisdictions. The next wave of studies should thus be aimed at empirical evaluation of accountability mechanisms, their effect on insolvency outcomes, satisfaction of stakeholders and economic efficiency.

Overall, the study would be included within the debate on insolvency governance existing today since it is not only disruptive of the descriptive analogy but also constitutes a conceptualization of the idea of practitioner liability. It provides a theoretical foundation and practical suggestions on how more resilient and transparent insolvency systems might be created through a combination of typological analysis and a multi-level accountability framework. Policies wise, the proposed structure offers a framework that can be adapted to different legal frameworks according to their institutional capabilities and regulatory practices. Rather than outlining harmonization, it permits selective introduction of accountability mechanisms and, as such, is particularly suitable in jurisdictions that undergo legal reform and desire to coordinate with international norms without compromising the flexibility of the system. In general, the research moves toward the theoretical evolution of the insolvency law by reconceptualizing the trustee liability as a process of dynamic governance and not rules of law. This method focuses on interaction, adaptation and institutional balance as some of the most effective regulative factors in a complex legal system.

Conclusions and Further Research

This paper proves that the responsibility of the bankruptcy trustees is not capable of being practically secured within the boundaries of one regulatory model because both of the existing models of administrative, judicial, professionals' self-regulation, and hybrid are characterized by the functional and structural weaknesses. The comparative analysis proves that accountability in insolvency systems is best seen as a multi-level and dynamic process, which are created as a result of interaction among institutional supervision, judicial restraint, professional norms, financial liability procedures, and technological tools.

To address the findings, the article forms a hybrid accountability framework that incorporates the best practices in the various models of regulation in a consistent system of governance. A functional typology of liability regimes and analytical analysis in terms of the accountability, effectiveness, and transparency criteria substantiate the stated idea that balanced and coordinated regulatory frameworks are the most sustainable ones. This model is further reinforced by the inclusion of digital monitoring tools that shift responsibility to proactive enforcement to preventive and ongoing monitoring. The study also establishes that the principal-agent theory and multi-level governance prove to be a suitable analytical framework for understanding insolvency practitioner liability as an embedded system of accountability, rather than a stand-alone procedure.

The practical applicability of the framework to the legal reform, especially to harmonization of the national insolvency rules with the international ones (like EU Directive 2019/1023) is also mentioned in the study. The proposed model does not imply homogenization. So, it is important to adapt it flexibly to national institutional settings, which is particularly useful in Ukraine. In general, the results can be applied to the development of the theory of insolvency governance by providing a multi-level view of trustee liability and provide a policy-focused basis to create more transparent, accountable, and robust insolvency regimes.

Declarations

Credit Authorship Contribution Statement:

Serhii G. Boiarchukov: Software, Formal analysis, Writing – original draft, Visualization;

Oleksandr L. Zinevych: Conceptualization, Methodology, Project administration, Data curation;

Maryna O. Dei: Investigation, Formal analysis, Supervision, Writing – review and editing;

Herasym Dei: Investigation, Resources, Formal analysis, Funding acquisition;

Kyrylo Anisimov: Conceptualization, Formal analysis, Data curation, Validation.

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Declaration of Use of Generative AI and AI-assisted Technologies: The authors declare that they have not used generative AI and AI-assisted technologies during the preparation of this work.

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