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Energy security principles: Legal nature, classification and modernisation

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■ **Abstract**. The research relevance is predetermined by the need to study the key fundamentals of the energy security system at the international and national levels. Among the urgent issues caused by the challenges and threats of modern life, primarily due to the full-scale invasion and aggression of Russia against Ukraine, the provision of energy security, principles, legal, organisational, and other foundations, implementation mechanisms, and corresponding guarantees are singled out. The purpose of the research is to carry out a general theoretical comprehensive analysis of the principles of ensuring energy security, their typology, and justification of the need for modernisation. The research uses a complex of scientific methods: epistemological, phenomenological, statistical, modeling and forecasting, formal-legal, comparative-legal, historical-legal, etc., as well as an anthropological approach. The study comprehensively highlights the essence and features of the principles of ensuring energy security, taking into account the interdisciplinary, cross-industry nature of the process of ensuring energy security. Based on available doctrinal and regulatory legal sources, the concept and legal essence of the principles of law, and principles of ensuring energy security were analysed; the author's vision of the criteria for the classification of the latter is substantiated, their varieties, the legislative basis of regulation and implementation, problems on this path and directions for their solution are considered. The terminological uncertainty, a certain non-systematic and inconsistency of the state energy policy of Ukraine, its organizational and legal foundations, and implementation mechanisms were noted. Therefore, the practical significance of the publication lies in the typology of the principles of ensuring energy security, the demarcation of the principles of energy policy of Ukraine, the principles of implementation of state policy in the sphere of energy security, the main fundamental principles of the strategy of cooperation in the energy sphere, etc. It is natural to modernise the existing principles of ensuring energy security, increase their efficiency, and strengthen the energy independence of the Ukrainian state, primarily in the conditions of the legal regime of martial law and post-war peacebuilding, cooperation in the field of energy and energy efficiency

■ **Keywords**: constitutional and legal framework; typology; European standards; legislative regulation

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Introduction

Various spheres of modern life depend on energy resources and the proper functioning of energy infrastructure, as well as effective energy policy, energy security and sustainable development. The diversity of energy sources, the development of technologies and relevant energy facilities facilitate the life of a person, a territorial community and other communities, society, states, and the global community, which are getting used to this progress and contributing to modernisation.

Military threats, in particular, Russia's military aggression against Ukraine, attracts special attention, which prompts modern researchers, government officials, energy and other experts, as well as the public, to pay attention to the state and guarantees of energy security.

The authors believe that the list of issues requiring in-depth study and resolution is not exhaustive, and this study aims to outline the key fundamentals, in particular the principles underlying energy security.

This is confirmed by the doctrinal achievements of foreign researchers. For example, the authors emphasised the importance of analysing energy security and the energy system (Hughes, 2012), a systematic approach to energy security assessment and strategy (Kharazishvili, 2019), and a multifaceted approach to analysing the security of critical energy infrastructure in the modern era (Ducaru, 2017). It is necessary to agree with the need to disclose the multifaceted aspects of the principles of interconnection between the spheres of energy and ecology, climate and environment, and the relevant principles of their provision and impact (Mete, 2020).

At the same time, multi-vector issues of energy security of individual states are being addressed, and even more often in recent years, the energy security of the European Union (EU), the North Atlantic Treaty Organisation (NATO) and the World Trade Organisation (WTO). For example, it is worth mentioning here the studies on energy indicators for analysing sustainability and stability in individual countries (Kemmler & Spreng, 2007), energy security in the era of hybrid wars (Dupuy *et al.*, 2021), etc. Given the experience of Poland's integration into the EU, the ongoing process of adapting energy, environmental and other sectoral national legislation to EU legislation, the experience of this country in energy security issues is important in the context of EU environmental initiatives (Khorishko, 2021). In turn, several foreign researchers reveal the peculiarities of the supranational nature in this area, in particular, legal and institutional obstacles to the EU's foreign energy policy (Vooren, 2011), measures in the EU energy sector and the impact on WTO law (Tilman, 2018), rethinking energy security management and policy in the European Union (Prontera, 2020), that is, along with the study of the principles of energy security, state policy, the issues of international and supranational security, relevant types of energy policy, as well as the development and adoption, implementation of standards in this area, systematic approaches to threat prevention, etc. are conceptualised. The most active efforts are those of European researchers in these areas, and it should be noted that Ukrainian scientists have been paying more attention to the stated issues in recent years.

The research aims to conceptualise the principles of energy security, their typology and justify the need for modernisation. To achieve this, the following tasks are set:

- clarify the legal nature of the principles of energy security and reveal approaches to their classification;
- describe the state of legislative regulation of the principles of energy security in Ukraine and the European Union;
- propose, based on positive experience in this area, ways to improve legal regulation and implementation of energy security principles.

Literature Review

It should be noted that there is considerable scientific interest in the issues of principles of law, legal regulation, legal support, etc. In particular, we are talking about legal theorists, representatives of international law, constitutional law, administrative law, etc.

Issues related to energy security are interdisciplinary and interdisciplinary in nature, so representatives of various branches of modern science are studying them. In particular, Y. Vashchenko (2015; 2018) considers state regulation in the energy sector as a set of legal, economic, and technical means, and distinguishes between a broad understanding of energy security and human energy security, the right to access to modern energy services. These categories are based on the relevant principles, general and specific principles.

The scientific position of R.O. Kotsyuba (2017) substantiates the concept of declarative-constitutional regulation of nuclear safety policy based on international legal acts in the field of nuclear safety guarantees implemented in national legislation and insufficiently reflected in the Constitution of Ukraine as guarantees of nuclear safety of the person and the people. The article identifies the constitutional and legal foundations of nuclear safety policy, which, along with the relevant guarantees, are constituted as systemic factors in the formation of declarative and constitutional elements of the legal system, in particular, in the formation of complex branches of law (energy law, nuclear law, radioecological law, radiation safety law, etc.) and relevant interdisciplinary institutions.

O. Muza (2023) highlights the peculiarities of administrative and legal regulation and the principles of ensuring Ukraine's energy security and energy supply in one of the latest studies. The author focuses on one of the most important objects of national security – energy security, its organisational and legal framework for ensuring it under martial law, which includes general and temporary provisions of legal regulation and institutional and legal mechanisms for the protection of critical infrastructure.

S.S. Bilotsky (2015) analysed international legal norms in the field of environmental energy at the universal, regional, and national levels, as well as within international organisations. He substantiated the role of the concept of sustainable development in shaping the ecological view of energy within the framework of international law and international relations; studied the concept of environmentally oriented energy from the point of view of international law, defined its basic principles; clarified the principles of international legal regulation of renewable energy sources, bioenergy, peculiarities of institutional mechanisms and implementation of international legal responsibility in this area. M. Chipko (2017) also identifies the principles of international legal regulation of cooperation between States on the use of renewable energy, an adaptation of Ukraine's national legislation to international legal standards for the introduction and use of such energy sources, to improve the effectiveness of legislation and its implementation in this area. The researcher emphasises that a coordinated system of global energy trade governance will contribute to the controllability and predictability of energy flows, and the adoption of bona fide non-discriminatory measures within the WTO will ensure the expansion of the use of renewable energy sources.

The fundamental postulates of the energy sector in general, energy security, and human rights in this area, in particular, have become the subject of attention in theoretical and practical terms. The level of security and competence in the energy sector is studied (Georgiadou *et al.*, 2023); energy security and resilience after/during crises (Liu *et al.*, 2023); attacks on energy infrastructure aimed at democratic institutions (Lordan-Perret *et al.*, 2019). As noted by Y. Kharazishvili *et al.* (2021) note that systemic and strategic approaches to assessing energy security, ensuring the security of sustainable development, tools, and strategic scenarios for implementing energy security in the context of geopolitical instability are important.

The ongoing pressure in the energy sector from Russia, the destruction of critical infrastructure, along with targeted European integration processes, and the implementation of international and European standards in national legislation, are properly reflected in scientific works and contribute to constructive scientific discourse in domestic and foreign publications (Prontera, 2020; Dupuy *et al.*, 2021; Khorishko, 2021). For example, K.V. Smirnova & O.V. Sviatun (2020) focus on the coordination mechanism for the implementation of the EU-Ukraine Association Agreement. Other researchers focus on the guarantees of state sovereignty and energy independence in the energy sector (Huhta, 2021; Ostudimov, 2022). The principles of responsibility and consequences for the destruction of energy infrastructure and energy security are also relevant (Shcherbyna *et al.*, 2022).

At the same time, such a category as the principles of ensuring energy security in today's conditions remains poorly researched, with scientific work being mostly fragmentary.

Materials and Methods

The methodological basis of the study is formed by several scientific and special methods of scientific knowledge, in particular, the method of system analysis, phenomenological, hermeneutical, and anthropological, as well as methods of analysis, synthesis, generalisation, statistical, modelling and forecasting. With the help of formal legal, comparative legal, historical, and legal, structural, and functional methods, the method of legal semiotics and other special legal methods, the author analyses the principles of studying legal categories and phenomena in their development and the process of their changes.

It should be noted that it is worth distinguishing the general scientific method of analysis, including the method of quantitative and qualitative analysis. The general philosophical or universal method of cognition was used at all stages of the cognitive process. The method of analysis was used to reveal the inherent characteristics and study certain features of the principles of energy security. This allowed to establish the differences between the principles of law, legal principles, sectoral and intersectoral principles, principles of regulation and implementation, principles of energy policy of Ukraine, principles of energy policy of the European Union, and principles of energy security.

The general criteria and approaches to the typology of energy security principles are recorded using the generalisation method, which allowed them to be classified, in particular, by the area of application (international legal, European principles, principles of energy security in Ukraine), as well as by the subject composition, in the implementation of EU legislation in the national legislation of Ukraine, etc.

The deduction method was used to qualify the characteristic features of the principles of energy security and also contributed to emphasising the interconnection, correlation, and distinction of such categories as "principles", "principles", and "foundations" in the context of this study. The comparative legal

method of cognition was used to compare and identify differences in the legislative regulation of the principles of energy security in the legislation of Ukraine and the legislation of the European Union and certain foreign countries.

The anthropological method allowed was used to highlight the human factor in the process of formation, implementation, and development of this phenomenon, as well as the real and potential consequences of the impact of people and communities, states and communities on the environment, energy resources and sustainable energy development. Furthermore, it is necessary to focus on the consequences of such interaction, which leads to the disclosure of the anthropological nature of the security of energy supply, energy consumption, etc.

Results

There is a diversity of views in scientific works on understanding the phenomenon of principle, with ambiguous approaches to its interpretation (Kotsyuba, 2017). Along with principles, there are sometimes such single-order categories as "foundations", "basics", "origins", "key ideas", etc. that are often identified. At the same time, the etymology of the principle itself is determined by its origin – from the French "*pɛincipe*", from the Latin "*principium*" – beginning, basis. In the authors' opinion, to reveal its nature and definition, one should refer to encyclopaedic and dictionary publications.

Thus, in this case, several approaches to understanding this phenomenon were highlighted:

1) the starting point of any theory, doctrine, science, worldview, or political organisation;

2) a key explanation, a feature underlying the creation or implementation of something (general scientific approach)

3) the original principle – the basis of a certain set of facts, theory, science (philosophical approach)

4) defining principles, initial ideas that are characterised by universality, general significance, and higher imperative and reflect the essential postulates of theory, doctrine, science, and system of national and international law (legal approach) (Kolba & Buimistera, 2012; Belyakov, 2021).

Most often, at the conceptual level, this concept is revealed in their works mainly by legal theorists and constitutional scholars, municipalists, administrators, international lawyers, etc. This can be explained primarily by the fact that principles are fundamental ideas that are characterised by a high level of concentration of legal positions and form the basis for the creation and implementation of legal norms to regulate legal relations. For a long time, the principles themselves have been concentrated as ideas, and their essential and dominant feature – generalisation, rising above specificity – is seen especially in the principles of law. Principles are translated into rules, contributing to their orderly and proper implementation. They concentrate on the result of the development of law, they embody the inextricable link between the past, present, and future.

Sometimes, the principles of law are defined as the starting ideas of its existence, which reflect the most important trends and patterns, the foundations of a certain type of state and law, are of the same order as the essence of law and constitute its main features, and are distinguished by their universality, binding nature, and general significance. This is the approach of M. Kozyubra (2017), who defines the problem of principles of law as one of the most complex, controversial, and ideological and methodological issues in general theoretical jurisprudence. Based on the scope of the relevant principles of law, the author proposes to classify them, on the one hand, as universal (universal human), civilisational, legal family, national principles (often referred to as general principles of law), and on the other hand, as sectoral, inter-sectoral, principles of law and principles of legal institutions. Given the above, it is the latter categories that are important because they are aimed at studying the principles of energy security, its regulation and implementation.

Thus, in the context of identifying the principles of energy security, we should focus on sectoral and cross-sectoral principles, as well as the principles of individual legal institutions. However, given the clear uncertainty of the place of energy law in the system of branches of law in Ukraine, the gradation or hierarchy of legal principles for regulating and ensuring energy security remains controversial.

The distinction between the principles of the law of different degrees of generality (hierarchical levels) leads to the problem of their correlation. It should be emphasised that these are principles of law relating to the energy sector and other related areas of social relations regulated by national law, sometimes by supranational and international law. Therefore, the most universal or general principles (general civilisation, integration) common to national systems of law are implemented within these systems, and less often – in the system of international law. At the same time, the principle of supranational generality may vary in the process of implementation, depending on the national system of law of a particular state (Nuclear industries security..., 2013; Lear, 2018).

Universal principles of law are interpreted as universal normative principles regulated in positive law, created by humanity as a global system, objectively determined by the interests and needs, the level of development of human civilisation, accumulating its best achievements in the legal sphere, determine the essence and direction of legal regulation, and are suitable for any system of law (Fuley, 2021).

Along with the classification of legal principles by the degree of generality (universal, civilisational, national), there is a tendency to distinguish principles according to the hierarchy in the system of law - general (related to the entire system of law), constitutional and legal (due to the special role and importance of constitutional law in national systems of law), sectoral, institutional. Such types can be considered relatively independent, but, for example, the sectoral principle may have the nature of a civilisation principle, i.e., in terms of the degree of generality, it may go beyond the national system of law (Kozyubra, 2017; Yakovyuk *et al.*, 2022).

General principles of law influence institutional and sectoral principles, which overlap and interact. Institutional principles concretise general principles in relevant areas, such as energy. General principles are further elaborated in sector-specific principles for institutions and relations in a particular sector. Some sectoral principles may arise directly from the general principles, while others may be specific to certain sectors. When studying the system of energy security principles, it is important to consider these aspects and possible links between them.

Y. Klyuchkovskyi (2018) believes that the category of "principle" in the scientific context belongs to the categories of scientific methodology, a kind of "meta-science". and therefore, can hardly be exhaustively defined within a particular science, in particular, the sciences that study law. Being one of the most general categories, the principle cannot be defined through other categories of the relevant science, which are inevitably less general. Thus, it should be noted that the understanding of principles as "guiding ideas" is multifaceted and broad and is not limited to general principles of law; in fact, it is *mutatis mutandis* transferred to sectoral and institutional principles of law.

According to representatives of the positivist approach, principles are the result of the generalisation of legal norms that arise in the course of the development of legal customs and legislative activity of state authorities. In other words, they are derived inductively from positive law, mainly created by the state. Such a "state-centric" position is reasonably denied in the current legal reality. Scholars point to the predominantly natural law origin of such ideas: the law is based on natural ideas, and the principles underlying law form it, determine the essence, and focus of the relevant rules (Kharitonova & Grigoryeva, 2020). In general, the state does not create fundamental principles of law but regulates them in legal acts. In this way, they differ significantly from ordinary rules of law, the formation and emergence of which often take place with the active assistance of the state. It follows that the key issue of the role of principles in legal regulation is one of those that are the subject of discussion, primarily between jus natural and positivists.

The above description of legal principles is fully applicable to sectoral and cross-sectoral principles of energy law and energy security. They express certain socio-political, socio-economic, and other related values and ideals recognised by a democratic society, driven by the needs and interests of a particular state, territorial communities and population. At the same time, globalisation and integration trends demonstrate that the world community, individual international organisations, and supranational entities have intensified their lawmaking efforts to define the principles of energy security.

Thus, the EU founding treaties set out the basic principles of law that are used to formulate the common policy of the member states in any area. The key principles of the EU's energy policy, including those aimed at ensuring energy security, are as follows:

- the principle of freedom of movement of goods, services, persons and capital, which is driven by the objectives of the EU's single internal market;
- the principle of non-discrimination, which primarily concerns the EU common market, the prohibition to include discriminatory conditions in contracts, ensuring "third-party access", and guarantees of fair competition;
- the principle of transparency in the internal market, providing for the possibility for consumers to obtain information on the dynamics of energy prices, as well as EU supervision of energy supplies and transit;
- the principle of environmental protection, reflecting the need for preventive measures in
- the principle of social factor consideration in energy policy, which leads to attention to the level of unemployment in the energy sector depending on market conditions, guarantees of security of employees in the energy sector[1].

The European Commission (hereinafter referred to as the EC) focuses on promoting the implementation of the EU's strategic goal of transforming Europe into a highly efficient energy community and low-carbon economy, which can become a catalyst for a "new industrial revolution". This goal and the corresponding measures reflected in the EC's documents and actions determine the essence of the European Energy Policy. The defined criteria and priorities demonstrate a combination of socio-economic,

[1]Consolidated version of the treaty establishing the European atomic energy community. (2010, March). Retrieved from https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:084:0001:0112:EN:PDF.

political, technical, and other factors that influence the constitution of the energy policy framework. Several measures are envisaged in the formation of international energy policy concerning the EU's interests[1]. In particular, the EU member states are called upon to initiate the development and implementation of mechanisms in international agreements aimed at implementing the principles of the Energy Charter Treaty. Another key principle is that cooperation in the energy sector with the EU's neighbouring countries is the basis of European security and stability policy.

Accordingly, the EU is called upon to create a multi-vector network of neighbouring states, cooperation with which will be based on the principles and rules of the EU energy policy:

- Strengthening the EU's relations with supplier countries based on partnership, taking into account the principles of transparency, reciprocity and predictability.
- developing relations with major energy consumers, in particular within the framework of the IEA, in the G8 format and intensifying bilateral cooperation;
- developing effective financial instruments and mechanisms, using the resources of the European Investment Bank and the European Bank for Reconstruction and Development (hereinafter referred to as the EBRD), launching the European Neighbourhood Policy Investment Fund, and strengthening the EU's energy security;
- Establishing conditions for investing in international projects following established legal procedures, coordinating and representing interests in international projects;
- support for non-proliferation of nuclear technologies by strengthening cooperation with the International Atomic Energy Agency (hereinafter – IAEA), etc. (Outcomes of the…, 2002; Energy experts share… 2017; Dupuy *et al.*, 2021).

Thus, the expansion of relations in the energy sector, the formation of a qualitatively new regional energy market involving neighbouring states, including Ukraine, and cooperation within the framework of the EU Treaty became evident. The 2005 Memorandum[2] of Understanding between Ukraine and the EU on Energy Cooperation, which provided for the implementation of roadmaps in the following areas: nuclear safety, enhancing the security of energy supply and hydrocarbon transit, integration of electricity and natural gas markets, coal mining and coal industry, energy efficiency, and renewable energy sources, is worth highlighting here. It is the basis for the 2016 Memorandum[3] of Understanding the Strategic Energy Partnership between Ukraine and the EU together with the European Atomic Energy Community, which enshrines the fundamental principles of the cooperation strategy between the parties in recent years.

An important aspect is the Agreement between the Government of Ukraine and the European Atomic Energy Community on Scientific and Technological Cooperation and Associate Participation of Ukraine in the Euratom Research and Training Programme (2014-2018), ratified in 2016. Ukraine's acquisition of the status of an associate member of this programme, given the recognised competence of Ukraine's scientific institutions and know-how in the field of nuclear energy, has provided an opportunity to expand mutually beneficial cooperation between Ukraine and the EU. The Ukrainian state shares the goals and principles of the Energy Union, enshrined in the EC's Framework Strategy for a Sustainable Energy Union with a long-term climate change policy. They provide for the provision of energy to consumers (households, businesses, etc.) in a secure, safe, stable, competitive, and affordable manner. To this end, the parties agreed to cooperate more closely to implement the principles set out in the Energy Union Strategy, thereby underlining the beginning of the creation of a new legal framework for cooperation in the energy sector (Communication from the..., 2014). The fulfilment of international obligations is a progressive integration into the EU and a prerequisite for Ukraine's strategic development in this direction. The Association Agreement envisages urgent reforms in the energy sector, in particular, in Sections IV "Trade and Trade-Related Matters" and V "Economic and Sectoral Cooperation" of Chapter 11 "Energy Trade-Related Matters"[4]. Here, attention is focused on the principles of energy price regulation, avoidance of dual pricing, along with the prohibition of customs duties, quantitative restrictions on imports and exports of energy products, and cooperation in the energy sector. There are also references to annexes that include a list and timeline for the implementation of EU legislation. According to this part of the Association Agreement, more than 300 EU regulations and

[1]Association Agreement No. 1678-VII "Between Ukraine, on the One Hand, and the European Union, the European Atomic Energy Community and Their Member States, on the Other Hand". (2014, September). Retrieved from https://zakon.rada.gov.ua/laws/show/984_011#Text.
[2]Memorandum between Ukraine and the European Union No. 994_694 "On Cooperation in the Energy Sector". (2016, November). Retrieved from http://zakon5.rada.gov.ua/laws/show/994_694.
[3]Memorandum No. 984_003-16 "Of Understanding on the Strategic Energy Partnership Between Ukraine and the European Union Jointly with the European Atomic Energy Community". (2016, November). Retrieved from https://zakon.rada.gov.ua/laws/show/984_003-16#Text.
[4]Association Agreement No. 1678-VII "Between Ukraine, on the One Hand, and the European Union, the European Atomic Energy Community and Their Member States, on the Other Hand". (2014, September). Retrieved from https://zakon.rada.gov.ua/laws/show/984_011#Text.

directives, and various EU acquis acts, including the most important ones in the field of energy and energy efficiency, need to be implemented and enforced.

According to V. Lear (2018), the following main principles of Ukraine's energy policy are constituted when implementing the provisions of EU legislation into the national legislation of Ukraine:

- the principle of systemic approach and emergence aimed at ensuring the balance of interests of society, the state, and business at different levels of the territorial and sectoral hierarchy of energy sector management;
- the principle of equivalence – equivalent, proportional and non-discriminatory development of energy sector sectors or sub-sectors, regional and local energy supply systems;
- the principle of subsidiarity – the optimal balance of decentralisation and centralisation of energy supply systems;
- the principle of diversity of energy sources - wide and free development of renewable and non-traditional energy sources;
- openness/closure principle – free access of third parties to power grids and, at the same time, limited access to high-risk energy facilities;
- the principle of segmentation is the delineation of markets by individual types of energy production, distribution and transmission activities;
- the principle of transparency, which guarantees the transparent provision of information to consumers on the dynamics of energy prices, the quality of energy services received, and public monitoring of energy flows;
- the principle of energy consumer sovereignty - ensuring real opportunities for consumers to become full-fledged subjects of energy markets by influencing the price level through demand;
- the principle of adaptability of energy systems – adjusting energy development indicators depending on the situation in energy markets;
- the principle of environmental friendliness - monitoring the state of the environment, reflecting the necessary environmental protection measures in the implementation of energy projects;
- the principle of social responsibility - the social needs of producers and consumers in energy policy, ensuring the safety and social protection of employees in the sector.

A noteworthy strategic document provides for an analysis of threats to energy security, their criticality, defines priorities for ensuring energy security and tasks aimed at preventing situations that could potentially pose threats to Ukraine's energy security. This refers to the Energy Security Strategy approved by the Cabinet of Ministers of Ukraine on 4 August 2021, No. 907-p.,[1] which aims to regulate the target model of the energy security system as a component of national security, as well as the directions of its implementation. In other words, it provides for the implementation of a system of governance and management in the energy sector based on the principles of the functioning of EU energy markets, in particular:

- sustainable development of the national economy, ensuring the availability of modern energy sources for all categories of consumers;
- transparent state and legal regulation, stability of energy policy and consistency of management decisions;
- liberalisation, competition and prevention of monopoly in the energy markets, guarantees of free access to markets and networks;
- state interference in the activities of business entities and market pricing mechanisms only in the manner and within the framework established by law;
- innovative technological development of the energy sector combined with guarantees of energy security, environmental protection and low-carbon economic development;
- preventing energy poverty and social protection of vulnerable consumers without distorting the competitiveness of energy markets;
- ensuring energy security through solidarity cooperation of all energy market players and the development of public-private partnerships[2].

Thus, along with probable forecast scenarios of changes in the energy sector and their impact on Ukraine's strategic choices shortly ("no change", "unfriendly influence", and "positive transformation" scenarios), considering internal and external threats to energy security, based on the scenario forecasting methodology, the Energy Security Strategy implements the principles and principles of functioning of the EU energy markets.

Furthermore, it should be noted that it was developed to balance the economic, social and environmental dimensions of Ukraine's sustainable development, and the strategic goals for energy security and the tasks to achieve them are consistent with the Sustainable Development Goals set out in the relevant Presidential Decree of 2019 No. 722[3].

Thus, the identification of numerous such principles leads to the conceptualisation of their typology,

[1]Order of the Cabinet of Ministers of Ukraine No. 907-p "On the Approval of the Energy Security Strategy". (2021, August). Retrieved from https://zakon.rada.gov.ua/laws/show/907-2021-%D1%80#Text.
[2]Ibidem, 2021.
[3]Decree of the President of Ukraine No. 722/2019 "On the Sustainable Development Goals of Ukraine for the period up to 2030". (2019, September). Retrieved from https:// zakon.rada.gov.ua/laws/show/722/2019#Text.

disclosure of approaches and criteria for their classification.

As such, it is possible to distinguish them by the area of distribution:

- international legal principles of energy security;
- European principles of energy security;
- principles of energy security in Ukraine (under national legislation).

Each of these groups is quite extensive and diverse both in terms of the authorised subjects of their establishment and implementation and in terms of subject and object and other features and criteria. At the same time, general and special principles of energy security need to be distinguished. This tendency is especially evident in the context of the adoption and implementation of obligations under individual agreements.

A general analysis of the principles of energy security in Ukraine shows that they are not enshrined in the constitution. At the same time, the safety of energy, especially nuclear energy, should become an important legal principle of legislative support for activities in this area and the protection of human rights in this regard. As such, the scientific opinion of R.O. Kotsyuba (2017) on the definition and justification of the constitutional and legal framework of nuclear safety policy is relevant. In her opinion, this is a system of constitutional principles and provisions on establishing and guaranteeing the human right to a safe environment protected from the harmful effects of nuclear energy, ionising and radiation.

At the same time, it is necessary to highlight certain problems on the way to defining, qualifying, regulating, and implementing the principles of ensuring the energy security of Ukraine. Thus, the regulation of the state of energy security of Ukraine and the basic principles of state policy in the field of its ensuring is carried out mainly at the level of by-laws, namely decrees of the President of Ukraine[1], orders of the Cabinet of Ministers of Ukraine (hereinafter – CMU),[2, 3] etc.

Energy security is defined as one of the most important components of national security, a condition for ensuring the sustainable development of the state. It implies achieving a state of technically reliable, stable, cost-effective, and environmentally safe energy supply to the economy and social sphere of the state. However, these legal acts do not detail the principles of ensuring Ukraine's energy security.

It is logical to summarise the legislative practice of Ukraine, in particular, several legislative initiatives in this area have been developed and registered. Thus, the purpose of Draft Law No. 8609 of 13.07.2018 "On the Principles of State Policy in the Field of Energy Security of Ukraine" is to regulate the basic principles of state policy aimed at ensuring the energy security of Ukraine and national interests in the energy sector. Thus, Article 4 sets out the principles of implementation of the state policy in the field of energy security:

- fully meeting the needs of end consumers (citizens, households, and business entities) with fuel and energy resources;
- Ukraine's independence in determining its foreign and domestic energy security policy;
- building partnerships with countries supplying the above resources on a mutually accessible and beneficial basis;
- sufficiency and timeliness of energy security measures;
- delineation of competence and interaction of government agencies in the process of ensuring energy security;
- decentralisation of energy supply to end consumers;
- Reducing the negative impact of the fuel and energy sector on the environment[4].

The law further defines the powers of entities in the field of energy security, priorities and directions of state policy, and control in this area. It should be noted that many of its provisions detail the Energy Strategy of Ukraine until 2035 "Security, Energy Efficiency, Competitiveness". In addition, other draft laws of Ukraine have been registered: No. 2496[5] dated 26.11.2019; No. 2582[6] dated 12.12.2019; No. 5436-1[7] dated 11.05.2021, etc. However, here, too, the subjects of legislative initiative ignore the

[1]The Decision of the National Security and Defense Council of Ukraine No. 504/2014 "On the State of Energy Security of Ukraine and the Main Principles of State Policy in the Sphere of its Provision". (2005, December). Retrieved from https://zakon.rada.gov.ua/laws/show/1863/2005#Text.

[2]Order of the Cabinet of Ministers of Ukraine No. 605-p "On the Approval of the Energy Strategy of Ukraine for the Period Until 2035 "Safety, Energy Efficiency, Competitiveness". (2017, August). Retrieved from https://zakon.rada.gov.ua/laws/show/605-2017-%D1%80#Text.

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relevant general and special principles of ensuring Ukraine's energy security. Therefore, it would be advisable to regulate such principles at the legislative level. This is especially relevant in the implementation of the Association Agreement[1], the UN Sustainable Development Goals and the relevant Presidential Decree of 2019[2].

The National Report "Sustainable Development Goals: Ukraine" sets certain targets for key indicators, including those related to energy security (National baseline report..., 2017). However, the effectiveness and efficiency of their achievement depend on the coherence of principles, goals, objectives and mechanisms for their implementation. This task is mainly entrusted to central executive authorities, which, due to the lack of systemic research and analytical materials, are guided by departmental approaches to solving the problem rather than substantiating strategic decisions.

At the same time, the concept of sustainable development, which is gradually being conceptualised as a global paradigm, is defined by the UN as the main direction of human civilisation, which involves the integration and balance of various components (economic, environmental, social, institutional, innovative and technological) for the welfare of humans without harming future generations, including in terms of energy supply and availability. Sometimes, sustainable development is generally interpreted as an integrated principle of international law that may already have the character of jus cogens, and the obligations arising from it are already erga omnes (Bilotsky, 2015; Tkachenko *et al.*, 2020; Kaminska, 2022).

Thus, there is a significant legal framework at the international and national levels that regulates basic and special principles for ensuring energy security as one of the most important components of national security and, at the same time, conditions for ensuring sustainable development of the state and the world community. The author notes numerous approaches to their classification, as well as problems of implementation.

Discussion

It is possible to note in the scientific literature an infrequent, but still present evolution of doctrinal sources in the context of energy security, certain types of energy in Ukraine and foreign countries. The authors agree with T. Kharitonova & H. Grigoryeva (2020), who note the trends in the development of scientific thought on the legal regulation of alternative energy in Ukraine, namely the following aspects:

1) methodological – lack of scientific and methodological research;

2) terminology –certain limitations, inconsistencies, different approaches to interpretation;

3) substantive – fragmentation, focus on harmonisation with EU legislation, comparative studies, including non-legal studies, aimed at proving the need and feasibility of transition to alternative energy.

Despite all the contradictions and inconsistencies in the ways to overcome the crisis, there is no reasonable alternative to the paradigm of sustainable energy development. At the same time, the principles of ensuring Ukraine's energy security need to be regulated by law, based on the three priorities of energy policy, namely:

- constant development;
- competitiveness;
- energy supply reliability.

This is the basis for planning prospects in the energy sector, consolidated by the governments of European countries. According to the authors, at the current stage of Ukraine's state-building, the focus should be on the sustainable development of the energy sector, which, of course, is associated with the development of unconventional and renewable energy sources, their distribution on the market, intensification of energy efficiency and energy saving policies, prevention, and elimination of the negative effects of climate change. All this should be reflected in the system of principles for ensuring Ukraine's energy security.

Another important aspect is that the latter category is broader than the category of principles of law, legal principles, etc., given the complex nature of Ukraine's energy policy, energy security and the field of energy law, implementation of norms and principles of international energy law and European energy law.

Turning to the consideration of energy security principles as sectoral or cross-sectoral principles, we note that the degree of their generality may have various aspects. On the one hand, these are principles of a narrower meaning than general ones. On the other hand, in many areas of legal regulation, globalisation processes give rise to the unification of approaches to the regulation of certain areas in national legal systems, forming "supranational" subsystems (branches, institutions) of law. Under these circumstances, the relevant sectoral or even inter-sectoral principles primarily acquire supranational, international, and cross-border character and content.

Some scholars argue that the principles are usually mainly declarative or fragmentary in nature, and for their proper observance in national legal systems, it is important to create legal mechanisms to

[1]Association Agreement No. 1678-VII "Between Ukraine, on the One Hand, and the European Union, the European Atomic Energy Community and Their Member States, on the Other Hand". (2014, September). Retrieved from https://zakon.rada.gov.ua/laws/show/984_011#Text.
[2]Decree of the President of Ukraine No. 722/2019 "On the Sustainable Development Goals of Ukraine for the Period up to 2030". (2019, September). Retrieved from https:// zakon.rada.gov.ua/laws/show/722/2019#Text.

ensure the implementation of the declared principles (Kozyubra, 2017; Fuley, 2021). The EU has followed a similar procedure, specifying the nature and content of the Union's values, procedures and mechanisms for their implementation and protection, and increasing liability for their violation.

Continuing research in this area, it should be noted that, given the multifaceted interpretation of the categories of "principles" and "sustainable development" and the expansion of their components, the concept of sustainable energy development is appropriate (Kaminska & Demidenko, 2023). This phenomenon has already become the subject of legal regulation at the national, regional, supranational, and universal levels. Therefore, it is important to pay attention not only to the general legal framework for sustainable energy development but also to the relevant practical and applied aspects, institutional and other implementation mechanisms, etc.

The scientific interest is shown by economists, representatives of public administration science, etc., primarily by such researchers as M. Taifouris & M. Martín (2023) and others. In particular, among the significant problems of energy security, S.P. Zavgorodnya (2021) highlights the problem of energy poverty. To identify and counteract this negative phenomenon, the Third and Fourth EU Energy Packages identify several measures that the EU Member States implement, taking into account the intensity of certain factors of energy poverty (low energy efficiency, high energy costs among household incomes; limited access to alternative energy; mismatch between household energy needs and energy availability for the population due to social or medical reasons); low awareness of energy consumer support programmes and energy saving measures at home.

It should be noted that energy security has been one of the challenges in the period of hybrid wars since the beginning of the twentieth century and up to the present day in the early twenty-first century, as well as one of the main strategic factors in military thinking, targeted disinformation, and cyberattacks. Its threats can potentially affect the sovereignty of states, state strategies and policies of many countries, international organisations, and international and regional legal order.

With Ukraine gaining EU candidate status and developing realistic scenarios for post-war reconstruction, there is a lack of theoretical and methodological developments, comparative studies, etc. Thus, it is necessary to concentrate the efforts of scientists and experts on various aspects of energy security. A solid basis for this, of course, is the existing work of domestic and foreign scholars on the principles, namely, the key fundamental ideas, concepts, theories, methodology, and organisational and functional principles in this area.

■ Conclusions

Thus, it should be noted that in modern legal science, scholars often resort to studying the issues of principles, principles of law, principles of legal regulation, provision, and implementation of state and legal phenomena. This is most typical for the theory of state and law, constitutional, administrative, information and other branches of law and legislation. At the same time, energy security – one of the most important objects of national and international security – is marked by the lack of conceptual comprehensive studies, including its fundamental principles.

Based on the analysis of existing doctrinal and regulatory sources, international legal acts, as well as bylaws at the national level, it can be argued that regulation is somewhat fragmented and inconsistent. This also applies to the implementation of the principles of energy security, the lack of unified approaches to understanding their essence, nature, essential features, mechanisms of implementation, their role and importance, etc. In particular, the Energy Security Strategy of Ukraine, the Energy Strategy of Ukraine until 2035 "Security, Energy Efficiency, Competitiveness", the Sustainable Development Goals of Ukraine until 2030 and other acts contain such categories as the principles of energy policy of Ukraine, principles of implementation of the state policy in the field of energy security, main fundamental principles of the strategy of cooperation in the energy sector, etc. Such inconsistency and terminological uncertainty, the ambiguity of object and subject composition and related factors have largely led to the unsystematic and inconsistent state energy policy of Ukraine and its organisational and legal framework.

The main principles, criteria and indicators in the field of energy security, regulated in international and supranational acts, multilateral and bilateral agreements (the Energy Charter Treaty, the Treaty establishing the Energy Community, the Memorandum of Understanding between Ukraine and the European Union on cooperation in the energy sector, the Association Agreement between Ukraine and the EU), seem to be more clear, which allows for a certain typology of energy security principles. Their system is quite extensive and diverse in terms of spatial, temporal, subjective and other features and criteria. Both individual principles in this area and mechanisms for their implementation require further in-depth research, especially in the context of intensifying the process of harmonisation with EU legislation and the fulfilment of Ukraine's international obligations. In other words, it is obvious that the existing principles of energy security need to be modernised and their effectiveness improved, as well as the mechanisms of state policy in the field of energy

and energy efficiency, sustainable development, restoration of energy infrastructure and strengthening of the energy independence of the Ukrainian state, especially in the context of the legal regime of martial law and post-war peacebuilding.

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Conflict of Interest

None.

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Принципи забезпечення енергетичної безпеки: правова природа, класифікація та модернізація

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■ **Анотація**. Актуальність статті зумовлена необхідністю дослідження ключових основоположних засад системи забезпечення енергетичної безпеки на міжнародному й національному рівнях. З-поміж невідкладних питань, спричинених викликами й загрозами сучасного життя, передусім через повномасштабне вторгнення, агресію росії проти України, виокремлено забезпечення енергетичної безпеки, принципи, правові, організаційні й інші засади, механізми реалізації та відповідні гарантії. Метою статті є здійснення загальнотеоретичного комплексного аналізу принципів забезпечення енергетичної безпеки, їх типології та обґрунтування необхідності модернізації. У статті використано комплекс наукових методів: гносеологічний, феноменологічний, статистичний, моделювання і прогнозування, формально-юридичний, порівняльно-правовий, історико-правовий тощо, а також антропологічний підхід. У дослідженні комплексно висвітлено сутність й особливості принципів забезпечення енергетичної безпеки, ураховуючи міждисциплінарний, міжгалузевий характер процесу забезпечення енергетичної безпеки. На підставі наявних доктринальних і нормативно-правових джерел проаналізовано поняття та правову сутність принципів права, принципів забезпечення енергетичної безпеки; обґрунтовано авторське бачення критеріїв класифікації останніх, розглянуто їх різновиди, законодавчу основу регулювання та реалізації, проблеми на цьому шляху й напрями їх розв'язання. Констатовано термінологічну невизначеність, певну несистемність і непослідовність державної енергетичної політики України, її організаційно-правових засад, механізмів реалізації. Тому практична значущість публікації полягає в типологізації принципів забезпечення енергетичної безпеки, розмежуванні принципів енергетичної політики України, принципів реалізації державної політики у сфері забезпечення енергетичної безпеки, головних фундаментальних принципів стратегії співпраці в енергетичній сфері тощо. Закономірною є модернізація наявних принципів забезпечення енергетичної безпеки, підвищення їх ефективності, зміцнення енергетичної незалежності Української держави, передусім в умовах дії правового режиму воєнного стану та повоєнного миробудівництва, співробітництва у сфері енергетики й енергоефективності

■ **Ключові слова**: конституційно-правові засади; типологія; європейські стандарти; законодавче регулювання