

The genesis of the concept and essence of the legal status of an individual in the Romano-Germanic and Anglo-Saxon legal families: Comparative analysis of Ukrainian and US legislation

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■ **Abstract.** The study was conducted to comprehensively analyse the peculiarities of formation and regulation of the legal status of an individual in Ukraine and the USA as representatives of the Romano-Germanic and Anglo-Saxon legal systems, respectively. In the study, a comparative analysis of legislative acts and regulations defining the legal status of individuals in these countries was carried out, and an assessment of legislative regulation in this area was conducted. The study determined that the legal status of individuals in Ukraine is based on a single centralised approach, where stability and clarity of rules contribute to legal predictability. This is reflected in strict rules regarding the clear definition of age limits for legal capacity and complex procedures for foreigners and refugees in labour rights. In the US, legal status is more dependent on case law and laws that differ from state to state, enabling a tailored approach to local circumstances. In the field of labour rights and refugee support, the American system, thanks to its flexibility, provides foreigners with greater opportunities for employment and quick adaptation. Judicial accountability in the United States ensures a quick response to rights violations, while centralised oversight in Ukraine provides uniformity in rule application across the country. Ukraine also has strictly regulated personal data protection rules, which ensures a high level of confidentiality but also creates certain difficulties in accessing information for individuals. Another important aspect is the strict regulation of political rights, which limits the possibility of foreigners' participation in government, emphasising the priority of national security and stability. The results are important for establishing a clear characterisation and emphasising the differences in the formation of the legal status of an individual, which is embodied in the priority given to stability and predictability in the Ukrainian system and the focus on adaptability and individual rights in the American system

■ **Keywords:** disability; anti-discrimination norm; codification; integration of employees with disabilities; decentralisation

■ Introduction

The issue of the legal status of an individual is central to modern jurisprudence, as it reflects the unique features of legal systems and determines the rights and obligations of an individual in a particular society. Globalisation, migration and close interaction between countries with different legal traditions have

increased the need for comparative research to help harmonise human rights at the international level. The differences between the Romano-Germanic and Anglo-Saxon systems create difficulties in harmonising the legal status of individuals, creating barriers to integration and the enforcement of rights. The

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analysis of the Ukrainian and American legal systems, which represent these traditions, can be used to assess different approaches to the formation of legal status. The absence of a comprehensive comparison of these approaches underscores the need for a more detailed study of their features and effectiveness in the modern legal field.

The issue of the legal status of an individual is an important aspect of modern jurisprudence, which reflects the interaction between the legal systems of different countries, determining the rights and obligations of an individual in a particular society. Globalisation and increasing migration processes create a need for a deeper understanding of the legal status of persons in different legal jurisdictions and arouse interest in comparing legal approaches. T. Mikhailina & Y. Gotsulyak (2021) addressed the typology of legal families, which contributes to the analysis of the features of the Romano-Germanic and Anglo-Saxon systems that underlie the regulation of the legal status of an individual. The relevance of comparing different approaches to the legal status of an individual is determined by the fact that the Romano-Germanic and Anglo-Saxon legal systems provide different levels of adaptability and stability for citizens and residents. V. Nepyivoda & I. Nepyivoda (2020) analysed the influence of Anglo-American case law on the development of the Ukrainian legal system, which was used to assess the adaptability of law enforcement in the context of the gradual introduction of elements of the Anglo-Saxon tradition.

Interpretation of administrative regulation is critical in ensuring the legal status of a person in centralised legal systems where the state plays a key role in ensuring stability. The study by O. Yanushkevich (2020) analysed the legal status of persons involved in the performance of state or public duties, which highlights the role of administrative regulation in shaping their legal status.

The analysis of labour rights is necessary for assessing the legal status of a person in different legal systems, especially in the context of the rights of foreigners. O. Alexandrov (2019) examined the conflict of laws in the regulation of labour relations with a foreign element, which provides a wider interpretation of the mechanisms of legal regulation of foreigners' rights in the field of employment. However, the researcher did not compare the approaches used in other legal systems, particularly the Anglo-Saxon one.

Judicial review is the main instrument for ensuring the legal status of an individual in the Romano-Germanic system. A. Melnyk (2021) analysed the nature of judicial precedent and judicial practice, focusing on their development in the Anglo-Saxon and Romano-Germanic legal families, which contributes to the determination of the differences in the functioning of judicial systems. The issue of the legal

status of refugees and stateless persons is particularly relevant in the context of growing migration flows. The study by K. Buhaichuk *et al.* (2021) analysed the legal aspects of migration regulation as a factor of national security, which highlights the importance of regulatory support for refugee rights for the stability of the state. However, the lack of comparative analysis with the legal systems of other countries, such as the United States, where the regulation of refugee integration is decentralised, limits the understanding of different approaches to ensuring the rights of this category of persons in the global context.

The protection of social rights, including those of persons with disabilities, is an important aspect that reflects the level of development of social support in the legal system. O. Triukhan *et al.* (2020) and G. Kazarian *et al.* (2019) addressed the legal guarantees and regulatory environment that ensure the protection of the labour rights of persons with disabilities in Ukraine and create conditions for their employment in managerial positions. However, these studies focus on the national context, without comparing the Ukrainian system with foreign models, which limits the possibility of assessing the effectiveness of the social guarantees provided in the international dimension.

Thus, the analysis of the literature indicates a high interest in the topic, but a comprehensive comparison of the Ukrainian and American systems leaves open questions about the effectiveness of legal protection of foreigners and refugees, mechanisms for the integration of persons with disabilities, and the adaptability of legal systems to changes in the socio-economic environment. The study aimed to conduct a comprehensive analysis of approaches to the formation of the legal status of a person in the context of the Romano-Germanic and Anglo-Saxon legal systems in the example of Ukraine and the United States. The main objectives are to study the regulation of labour rights, analyse the mechanisms of social integration and compare approaches to ensuring individual legal guarantees in these systems.

■ Materials and Methods

In this study, the legal status of an individual in Ukraine and the United States was analysed by comparing the key legal acts of both countries regulating legal capacity, legal capacity, labour rights, citizenship, personal data protection and anti-discrimination mechanisms. To establish the peculiarities of legal approaches in the Romano-Germanic and Anglo-Saxon legal families, the author made a systematic comparison of the structure and content of the provisions and studied the mechanisms of their application. Particular attention was devoted to the practical implementation of legal provisions and the way these mechanisms affect the legal status of individuals in the social and legal context.

The analysis of Ukrainian legislation covered the provisions of the Civil Code of Ukraine¹ to establish how the legal capacity and legal capacity of individuals, as well as their personal non-property and property rights are regulated. To study the impact of citizenship on legal status, the provisions of Law of Ukraine No. 2235-II "On Citizenship of Ukraine"² were used, which outline the procedure for acquiring and terminating citizenship. To analyse the status of foreigners, the provisions of the Law of Ukraine No. 3773-VI "On the Legal Status of Foreigners and Stateless Persons"³ were used, which was used to study the peculiarities of legal regulation of foreigners' stay in Ukraine. The Labour Code of Ukraine⁴ was used as a basis for analysing the mechanisms for ensuring equality in labour relations and combating discrimination, which allowed to establishment of approaches to guaranteeing social rights. The Law of Ukraine No. 2297-VI "On Personal Data Protection"⁵ was used to study the legal framework for personal data protection, which provided the basis for analysing the requirements for processing and storing information about individuals.

As part of the study of American law, the provisions of the United States Constitution⁶ and the Fourteenth Amendment were examined to establish the principles of equal protection before the law and due process. To analyse anti-discrimination mechanisms, the Civil Rights Act⁷ was used to explore legal instruments to ensure equal opportunities and prevent discrimination in various spheres of public life. The Americans with Disabilities Act⁸ was employed to determine how the US legal system regulates the rights of persons with disabilities and promotes their social integration. An important place in the study was occupied by the Privacy Act⁹, which served as a source for analysing the mechanisms of processing and storage of personal information at the federal level.

The comparative analysis was conducted by comparing the provisions of Ukrainian and American legislation to identify the main differences and common

features in the approaches to regulating the legal status of individuals. The study examined approaches to the legal regulation of the rights of foreigners by comparing the provisions of the Law of Ukraine No. 3773-VI "On the Legal Status of Foreigners and Stateless Persons"¹⁰ with the Fourteenth Amendment to the Constitution of the United States¹¹. The protection of personal data was analysed by comparing the Law of Ukraine No. 2297-VI "On Personal Data Protection"¹² and the Privacy Act¹³, which established the difference in approaches to ensuring confidentiality. The anti-discrimination mechanisms were studied by comparing the provisions of the Labour Code of Ukraine¹⁴ with the Civil Rights Act¹⁵, which revealed the specifics of approaches to ensuring equal opportunities in labour relations. This approach enabled a comprehensive analysis of legal systems and provided a complete overview of how different legal traditions affect the regulation of the legal status of individuals.

■ Results

The Ukrainian legal system, formed within the Romano-Germanic tradition, defines the legal status of an individual through a set of rights and obligations enshrined in codified acts. The genesis of this concept in Ukraine is based on the ideas of legal equality, social justice and legal certainty that began to emerge as early as the adoption of the first systematic legal collections. In the modern legal system, the essence of an individual's legal status is reflected in regulations, such as codes and specialised laws, which define the scope of legal capacity and legal capacity of individuals. Administrative and judicial control ensures that these rights and obligations are exercised in specific life situations. The main goal of such a system is to create a stable legal environment where the rights of each individual are clearly defined, minimising the risk of violation or ambiguous interpretation.

An important feature of the Ukrainian approach is the systematic codification that forms the basis of legal stability. Codes, such as the Civil Code of

¹ Civil Code of Ukraine. (2003, January). Retrieved from <https://zakon.rada.gov.ua/laws/show/435-15>.

² Law of Ukraine No. 2235-II "On Citizenship of Ukraine". (2001, January). Retrieved from <https://zakon.rada.gov.ua/laws/show/2235-14>.

³ Law of Ukraine No. 3773-VI "On the Legal Status of Foreigners and Stateless Persons". (2011, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/3773-17>.

⁴ Labour Code of Ukraine. (1996, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/322-08>.

⁵ Law of Ukraine No. 2297-VI "On Personal Data Protection". (2010, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/2297-17>.

⁶ Constitution of the United States. (1787, September). Retrieved from <https://www.archives.gov/founding-docs/constitution>.

⁷ Civil Rights Act. (1964, July). Retrieved from <https://www.archives.gov/milestone-documents/civil-rights-act>.

⁸ Americans with Disabilities Act. (1990, July). Retrieved from <https://www.dol.gov/general/topic/disability/ada>.

⁹ Privacy Act. (1974, December). Retrieved from <https://www.justice.gov/opcl/privacy-act-1974>.

¹⁰ Law of Ukraine No. 3773-VI "On the Legal Status of Foreigners and Stateless Persons". (2011, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/3773-17>.

¹¹ Constitution of the United States. (1787, September). Retrieved from <https://www.archives.gov/founding-docs/constitution>.

¹² Law of Ukraine No. 2297-VI "On Personal Data Protection". (2010, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/2297-17>.

¹³ Privacy Act. (1974, December). Retrieved from <https://www.justice.gov/opcl/privacy-act-1974>.

¹⁴ Labour Code of Ukraine. (1996, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/322-08>.

¹⁵ Civil Rights Act. (1964, July). Retrieved from <https://www.archives.gov/milestone-documents/civil-rights-act>.

Ukraine¹, set out the basic provisions on legal capacity and legal transactions and regulate a wide range of personal and property rights. However, this structure may limit the flexibility of the system, as any changes require lengthy legislative procedures. This is especially evident when society faces new challenges, such as in personal data protection or labour relations. Administrative bodies play an important role in enforcing the law, while courts in most cases apply the rules already established (Enders, 2020).

In the United States, where the legal system developed within the Anglo-Saxon tradition, the genesis of the concept of the legal status of an individual was different. Case law was the primary factor, with each important court decision creating new approaches to understanding rights and freedoms. This process of gradual formation of norms ensured the flexibility of the system, allowing it to adapt to new social conditions (Collinson, 2020). Laws in American law serve as general principles, but their interpretation and development depend on case law. The legal status of an individual is formed not only through legislation but also through individual court decisions that set new standards of legal regulation. This flexibility of the US system provides for a quick response to changes

but also creates a certain unpredictability. Different court instances may interpret the same rules differently, which makes it difficult to ensure uniformity of law enforcement. At the same time, this approach contributes to the development of law in line with the current needs of society, as court decisions address the individual circumstances of each case. Citizens actively apply to courts to protect their rights, which increases the role of the judiciary in regulating relations between individuals and the state.

As shown in Table 1, the difference between the legal approaches of Ukraine and the United States has a significant impact on the legal status of individuals. In the Romano-Germanic tradition, which is common to Ukraine, codification provides clarity and stability, but it limits the system's ability to adapt quickly to new challenges. In the Anglo-Saxon system, characteristic of the United States, judicial interpretation and precedent are given priority, which creates a more flexible legal environment, although it increases dependence on case law. As a result, these two legal systems demonstrate different models of interaction between the state and the individual, each with its strengths and weaknesses in ensuring the legal status of individuals.

Table 1. Main features of the Romano-Germanic and Anglo-Saxon legal families

Criteria	Romano-Germanic legal family (Ukraine)	Anglo-Saxon legal family (USA)
Sources of law	Codified acts (laws, codes)	Precedents, court decisions and laws
The role of case law	Limited role in the creation of law	Significant role in shaping legal norms
Flexibility of adjustment	Less flexibility, stability of regulations	High flexibility through the development of precedents
Priority in regulation	Emphasis on detailed regulation of norms	Emphasis on the interpretation of rules by the judiciary
Reaction to changes	Slow adaptation to new challenges	Fast adaptation through court decisions
System stability	High due to codification	Depends on the development of case law
Ways to protect your rights	Focused on administrative and legislative mechanisms	The important role of courts and personal lawsuits

Source: compiled by the author based on R. Arnold & J. Ginsburg (2020), and M. Stuckey (2020)

Ukrainian legislation regulates the legal capacity and capacity to act of individuals clearly and systematically, based on a detailed codification. Article 25 of the Civil Code of Ukraine² (2003) stipulates that legal capacity arises from the moment of birth and ceases upon death. This provision ensures that all individuals, regardless of their circumstances, have the same opportunity to have rights and obligations throughout their lives. However, this formalisation of legal capacity does not consider special circumstances, such as those of persons with serious illnesses or disabilities that require special regulation or support.

The legal capacity of individuals is regulated based on age and the ability of the individual to exercise their rights and perform their duties independently. Article 30 of the Civil Code of Ukraine³ defines full legal capacity at the age of 18, which allows a person to enter contracts and perform other legally significant actions without restrictions. However, the strict imposition of this age does not account for cases where minors demonstrate the ability to act independently in certain situations. An exception to this rule is marriage, which grants full legal capacity even before the age of 18, but this possibility remains limited.

¹ Civil Code of Ukraine. (2003, January). Retrieved from <https://zakon.rada.gov.ua/laws/show/435-15>.

² Ibidem, 2003.

³ Ibidem, 2003.

Partial capacity is regulated by Article 32 of the Civil Code of Ukraine¹. It allows persons aged 14 to 18 to enter certain transactions with the consent of their parents or guardians. This provision aims to protect the interests of minors, but at the same time limits their autonomy by creating barriers to independent decision-making. This can make it difficult for adolescents to participate in legal relations, especially in cases where they already assume responsibility, such as in labour or entrepreneurial activities.

The procedure for restricting legal capacity is regulated by Article 36 of the Civil Code of Ukraine², which provides for the possibility of restricting a person's legal capacity due to addiction or mental disorders, which is approved by the court. While this mechanism guarantees the protection of the rights of the person and their environment, it is more focused on restrictions than on rehabilitation or support. Restoration of legal capacity under Article 42 of the Civil Code is possible only by court order, which can delay the process even if the person's condition improves quickly.

In the United States, legal capacity and legal standing are determined based on the principle of equal access to rights enshrined in the Fourteenth Amendment of the Constitution of the United States³. However, unlike Ukraine, which has a unified regulatory system, the US regulates these issues from state to state, which creates a variety in law enforcement. For example, in California, the age of legal capacity is 18 under Section 6500 of the California Family Code⁴, but in some cases, younger persons may make legal decisions if the court allows it. This approach allows for more flexibility in addressing the circumstances of each case. Judicial practice is prominent in determining and limiting legal capacity. Section 1801 of the California Guardianship Act⁵ establishes the possibility of appointing guardianship for persons who are unable to manage their property or make important decisions on their own. The judicial system allows for quick adaptation of decisions to changes in a person's condition, which increases the effectiveness of protecting their rights. However, this flexibility also creates a risk of heterogeneity in the application of the law across states, which can make it difficult to ensure uniformity of case law.

In the United States, legal capacity and capacity are regulated not only by state laws but also by

federal acts, such as the Americans with Disabilities Act⁶. Title I of the Act adds an important component to the regulation of legal capacity by requiring government agencies, employers and public facilities to provide "reasonable accommodations" for individuals with disabilities. This includes accessible workplaces, special equipment, and adaptations to public services that facilitate their full participation in society. Thanks to such norms, the US legal system goes beyond formal restrictions and focuses on active support for people with special needs.

A key difference between Ukrainian and US law is the balance between stability and flexibility in the regulation of legal capacity and capacity to act. Ukrainian law guarantees a unified approach to the determination of legal capacity through strict rules governing age limits and conditions for the restriction of rights. This ensures legal certainty but limits the ability to address the individual needs of individuals.

In the United States, courts have broader powers to establish and review capacity, which ensures response to specific circumstances in a person's life. However, this creates a challenge in ensuring uniformity of enforcement at the national level, as different states may interpret the same principles differently. While Ukraine offers stability through centralised regulation, the US system favours individualised solutions, which allows for a more precise match to the needs of individuals but makes it difficult to ensure uniformity of practice.

Ukrainian labour law defines the basic rights of employees and establishes obligations for employers but remains largely codified and unclear. The main provisions are contained in the Labour Code of Ukraine⁷. According to Article 2(1) of the Labour Code, everyone has the right to work and equal access to jobs. However, the regulatory framework has certain limitations in terms of adaptation to modern conditions, such as remote employment and the development of flexible forms of work. This makes it difficult for employees to effectively exercise their rights in the new economic environment.

Anti-discrimination provisions in Ukrainian labour law proclaim equal rights for all individuals regardless of gender, age or nationality. Article 21 of the Labour Code of Ukraine⁸ prohibits any form of discrimination in employment, but the lack of effective

¹ Civil Code of Ukraine. (2003, January). Retrieved from <https://zakon.rada.gov.ua/laws/show/435-15>.

² Ibidem, 2003.

³ Constitution of the United States. (1787, September). Retrieved from <https://www.archives.gov/founding-docs/constitution>.

⁴ California Family Code. (1994, January). Retrieved from https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1.&lawCode=FAM.

⁵ California Guardianship Act. (1990, November). Retrieved from https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=1510.

⁶ Americans with Disabilities Act. (1990, July). Retrieved from <https://www.dol.gov/general/topic/disability/ada>.

⁷ Labour Code of Ukraine. (1996, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/322-08>.

⁸ Ibidem, 1996.

mechanisms to monitor and sanction violations limits the implementation of these provisions. The legislation also does not provide for specific measures to support older workers or persons with disabilities.

Gender equality in employment is also enshrined in Ukrainian legislation, in the Law of Ukraine No. 2866-IV “On Ensuring Equal Rights and Opportunities for Women and Men”¹. However, despite the existence of relevant provisions, the actual level of gender equality remains low, especially in terms of access to leadership positions and equal pay (Varych, 2022). The lack of inspection methods by state authorities reduces the effectiveness of compliance with these norms.

In the United States, labour law not only proclaims equal rights but also ensures their actual implementation through a range of federal and local regulations. One of the key instruments is Title VII of the Civil Rights Act², which prohibits discrimination based on race, sex, religion or national origin. This regulation requires employers to treat all employees equally when hiring, firing or promoting them.

Protection against age discrimination is governed by the Age Discrimination in Employment Act³. This law applies to employees over the age of 40 and prohibits any action by employers that may adversely affect the employment or promotion of such persons. The principle of equal opportunity is also enshrined in the complaint mechanisms handled by the Equal Employment Opportunity Commission (EEOC), which has the authority to investigate and sanction employers in the event of violations.

Workplace adaptation for people with disabilities is regulated by the Americans with Disabilities Act⁴. Title I of the Act requires employers to provide “reasonable accommodations” for such employees unless it imposes an undue financial or organisational burden. This requirement includes adaptations to the work environment and work schedules that enable people with disabilities to actively participate in the workplace without restriction.

A comparison of Ukrainian and American labour laws has revealed significant differences in both the structure of the norms and the mechanisms for their implementation. The American system is more oriented towards the practical enforcement of equal

rights through clear control procedures and the possibility of appealing to institutions such as the EEOC, while in Ukraine, control over the implementation of anti-discrimination norms remains insufficient.

The US addresses age discrimination. The Age Discrimination in Employment Act⁵ provides employees over 40 with effective protection measures, while in Ukraine there are no or only declarative rules on the protection of older workers in labour relations. This creates a significant gap in labour market opportunities for older people between the two countries. The integration of employees with disabilities also varies significantly. In the United States, employers are required not only to avoid discrimination but also to actively provide workplace adaptations following Title I of the Americans with Disabilities Act⁶, which facilitates the real participation of such employees in the labour process. In Ukraine, however, anti-discrimination regulations concerning persons with disabilities do not have such flexibility and are limited to general prohibitions of discrimination without specific requirements for employers to adapt working conditions.

Ukrainian legislation establishes the legal status of foreigners and stateless persons through a set of provisions, in particular the Law of Ukraine No. 3773-VI “On the Legal Status of Foreigners and Stateless Persons”⁷, which defines the rights, obligations and procedure for the stay of these persons in the country. Article 3 of this Law guarantees equal socio-economic rights for foreigners on a par with citizens, with the exception of political rights, such as participation in elections and the right to hold positions in the civil service. This model ensures basic legal equality in access to services and opportunities, but at the same time establishes certain restrictions for foreigners that make it impossible for them to fully integrate politically.

The impact of citizenship on a person’s legal status is regulated by the Law of Ukraine No. 2235-II “On Citizenship of Ukraine”⁸, which defines the conditions for acquiring and losing citizenship. Article 6 of the Law provides that citizenship may be acquired by birth or through naturalisation. However, the naturalisation procedure provides for additional requirements, such as long-term residence on the

¹ Law of Ukraine No. 2866-IV “On Ensuring Equal Rights and Opportunities for Women and Men”. (2005, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/2866-15>.

² Civil Rights Act. (1964, July). Retrieved from <https://www.archives.gov/milestone-documents/civil-rights-act>.

³ Age Discrimination in Employment Act. (1967, December). Retrieved from <https://www.eeoc.gov/statutes/age-discrimination-employment-act-1967>.

⁴ Americans with Disabilities Act. (1990, July). Retrieved from <https://www.dol.gov/general/topic/disability/ada>.

⁵ Age Discrimination in Employment Act. (1967, December). Retrieved from <https://www.eeoc.gov/statutes/age-discrimination-employment-act-1967>.

⁶ Americans with Disabilities Act. (1990, July). Retrieved from <https://www.dol.gov/general/topic/disability/ada>.

⁷ Law of Ukraine No. 3773-VI “On the Legal Status of Foreigners and Stateless Persons”. (2011, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/3773-17>.

⁸ Law of Ukraine No. 2235-II “On Citizenship of Ukraine”. (2001, January). Retrieved from <https://zakon.rada.gov.ua/laws/show/2235-14>.

territory of Ukraine, knowledge of the state language and legal sources of income. Article 19 sets out the grounds for the loss of citizenship, including in the case of voluntary acquisition of another citizenship or submission of false information when applying for Ukrainian citizenship. This approach underscores the importance of citizenship as a measure of the full legal integration of a person.

Administrative procedures for obtaining temporary and permanent residence permits are quite complex and lengthy, which can create significant barriers to the exercise of foreigners' rights, in the field of work or education (Alexandrov, 2019). Although they formally have the right to work and study, long waits for a decision can limit access to these opportunities. In addition, there are no specialised integration programmes for foreigners and stateless persons in Ukraine, which makes it difficult for them to adapt to the country's socio-economic environment.

In the United States, the legal status of foreigners and stateless persons is shaped by federal regulations and the principle of equal protection of rights enshrined in the Fourteenth Amendment to the Constitution of the United States¹. This document guarantees equal access to justice and basic social services to all persons, regardless of citizenship. Foreigners are entitled to all socio-economic rights, including the right to work and access to educational and healthcare services, but this is preceded by a complex process of obtaining permanent residence. Political rights also remain the exclusive prerogative of citizens, which underscores the importance of citizenship as a factor for full integration.

The US legislation emphasises support for refugees and stateless persons through the provisions of the Refugee Act². According to Section 207 of this law, refugees have access to educational and vocational programmes, as well as social services that facilitate their rapid adaptation. They have the right to employment and housing allowances, as well as the possibility to appeal administrative decisions through the judicial system, which guarantees an additional level of legal protection.

Naturalisation procedures in the United States are more flexible than in Ukraine. The principle of birthright citizenship (*jus soli*), enshrined in the Fourteenth Amendment to the Constitution of the United States³, grants citizenship to all persons born in the country, regardless of the citizenship of their parents. Naturalisation for adults is subject to several conditions, such as passing an English language test and knowledge of the fundamentals of the constitutional

system. This ensures a more inclusive approach to citizenship, facilitating the integration of new generations of foreigners into social life.

A comparison of the legal regulation of the status of foreigners and stateless persons in Ukraine and the United States reveals important differences in public policy priorities and approaches to the integration of these persons into society. One of the features of the American system is the emphasis on flexibility of procedures and the creation of conditions for rapid integration through extensive social programmes and legal protection mechanisms (Ruble, 2020). This is manifested in access to legal instruments, such as the possibility of appealing administrative decisions in court, which contributes to the stability of the legal status of foreigners.

The Ukrainian model, centred around clear administrative procedures, is more focused on the formal determination of the status of persons, but the lack of integration tools limits their social inclusion. In the United States, due to the developed refugee support system, integration measures are comprehensive, which allows for a focus on the active involvement of these persons in public life. In Ukraine, however, priorities are shifted towards strengthening control over compliance with migration legislation, which sometimes creates additional barriers for foreigners and stateless persons (Buhaichuk *et al.*, 2021).

The integration of foreigners and stateless persons in Ukraine requires a re-examination of priorities with a focus on developing support programmes similar to those in the United States. While the United States has long implemented social and professional programmes to integrate such persons, Ukraine needs to develop the infrastructure to provide social support and adaptation at the legislative level.

In the context of the Romano-Germanic legal family, to which Ukraine belongs, personal data protection is an important element of the legal status of an individual. The Law of Ukraine No. 2297-VI "On Personal Data Protection"⁴ envisages a comprehensive system that regulates the processing of personal data by both public and private entities. This reflects the general trends in legal regulation in Romano-Germanic countries, where the universality of norms and clarity of legal standards are key principles. The mandatory consent to data processing enshrined in Article 6 of the Law reflects the desire to ensure legal predictability and privacy protection. However, in practice, this approach faces challenges due to insufficient oversight and lack of institutional support for implementation.

¹ Constitution of the United States. (1787, September). Retrieved from <https://www.archives.gov/founding-docs/constitution>.

² Refugee Act. (1980, March). Retrieved from <https://www.govinfo.gov/content/pkg/STATUTE-94/pdf/STATUTE-94-Pg102.pdf>.

³ Constitution of the United States. (1787, September). Retrieved from <https://www.archives.gov/founding-docs/constitution>.

⁴ Law of Ukraine No. 2297-VI "On Personal Data Protection". (2010, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/2297-17>.

Another aspect that affects the effectiveness of the regulation is the lack of sufficient compensation mechanisms for breaches of privacy standards. Although Article 8 of the Law of Ukraine No. 2297-VI “On Personal Data Protection”¹ guarantees individuals the right to access their data and the possibility to correct or delete inaccurate information, in practice citizens often face bureaucratic barriers. This indicates that formal compliance with European standards does not always mean that individuals can protect their rights. In Ukraine, personal data protection remains a part of the broader legal status of individuals but requires stronger control to ensure more effective application of the rules.

The US personal data protection system, which is a member of the Anglo-Saxon legal family, is based on a decentralised and sectoral approach. In this model, privacy protection is regulated by different laws depending on the area of activity. For example, Section 552 of the Privacy Act² sets out rules for

government agencies, focusing on transparency and accountability of data processing. At the same time, it does not apply to the private sector, where other sectoral laws, such as the Health Insurance Portability and Accountability Act³ or the Gramm-Leach-Bliley Act⁴ (1999), are in force. This approach reflects the general tendency of Anglo-Saxon law to be flexible and adaptable to the needs of individual industries.

State laws, such as sections 1798.100-1798.199 of the California Consumer Privacy Act⁵, further strengthen consumer protection by providing individuals with the ability to request the deletion of their data and control its processing. This approach helps to strengthen the legal position of individuals, but at the same time creates legal fragmentation due to the lack of a unified national standard. This emphasises the importance of individual responsibility for the protection of individual rights and the availability of effective enforcement mechanisms, which is a characteristic feature of the Anglo-Saxon system (Table 2).

Table 2. Comparison of approaches to personal data protection: Ukraine and the USA

Aspect	Ukraine	USA
Form of regulation	A single law for all areas	Sectoral laws for different industries
Centralisation of norms	High (single control system)	Low (several levels of regulation)
Management approaches	Limited powers of supervisory authorities	Strong control through the judiciary
Sanctions for violations	Insufficiently specific	Severe sanctions in certain areas (e.g., healthcare and finance)
Right to rectification and deletion of data	Provided for, but implementation is difficult	Wide opportunities through state laws
Protection tools for consumers	There are no special mechanisms for consumers	There are controls in place, such as in the California Consumer Privacy Act ⁶ .
Availability of compensation for violations	There are no effective compensation mechanisms	Possibility of compensation through lawsuits
Flexibility for business	Limited due to strict regulatory requirements	High, thanks to flexible regulation in different states

Source: compiled by the author based on Law of Ukraine No. 2297-VI “On Personal Data Protection”⁷ and Privacy Act⁸

Based on the data shown in table 2, it is possible to argue that the desire for unified regulation in Ukraine is evident, where all entities, regardless of their field of activity, must comply with the same rules, which is in line with the principle of formalism inherent in the Romano-Germanic system, but the imperfect supervision and sanction mechanisms make it difficult to achieve effective protection. In the United States, the decentralised approach of the

Anglo-Saxon system provides flexibility and adaptation to the needs of specific industries. However, such fragmentation creates legal uncertainty and can make it difficult to enforce rights, especially when data subjects interact with companies operating in different jurisdictions. However, greater opportunities for challenging violations through the courts and the availability of effective control tools through laws such as the California Consumer Privacy

¹ Law of Ukraine No. 2297-VI “On Personal Data Protection”. (2010, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/2297-17>.

² Privacy Act. (1974, December). Retrieved from <https://www.justice.gov/opcl/privacy-act-1974>.

³ Health Insurance Portability and Accountability Act. (1996, August). Retrieved from <https://www.cdc.gov/phlp/php/resources/health-insurance-portability-and-accountability-act-of-1996-hipaa.html>.

⁴ Gramm-Leach-Bliley Act. (1999, November). Retrieved from <https://www.ftc.gov/legal-library/browse/statutes/gramm-leach-bliley-act>.

⁵ California Consumer Privacy Act. (2018, September). Retrieved from <https://oag.ca.gov/privacy/ccpa>.

⁶ Ibidem, 2018.

⁷ Law of Ukraine No. 2297-VI “On Personal Data Protection”. (2010, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/2297-17>.

⁸ Privacy Act. (1974, December). Retrieved from <https://www.justice.gov/opcl/privacy-act-1974>.

Act¹ strengthen the position of the individual and increase the level of responsibility of data controllers.

At the same time, in both systems, personal data protection is essential to the legal status of individuals. In Ukraine, this necessity is caused by the desire to integrate into the European legal space and ensure an adequate level of privacy protection, while in the United States, the emphasis is on individual rights and accountability of data processing subjects.

Thus, Ukraine and the United States, as representatives of different legal systems (Romano-Germanic and Anglo-Saxon, respectively), have significant differences that affect the models of legal regulation of the concept and essence of an individual. In Ukraine, legal status is ensured through clear codification and centralised regulation, which contributes to legal certainty and stability, but limits the flexibility of the system. At the same time, the US system is based on case law and decentralised regulation, which allows for rapid adaptation to new challenges but creates a risk of legal uncertainty due to different approaches at the state and federal levels. Each model has strengths and weaknesses: the Ukrainian system prioritises stability and administrative control, while the US system emphasises litigation and individual responsibility, which creates a more dynamic legal framework for protecting the rights of individuals.

■ Discussion

Different legal families – the Romano-Germanic family, to which Ukraine belongs, and the Anglo-Saxon family, represented by the US system – have significant differences in their approaches to the formation of the legal status of an individual. Ukraine uses centralised codification and a unified system of rules, while the US uses a flexible approach through a combination of case law and sectoral regulation. These different models provide unique features in the provision and regulation of legal status, which is the basis for the following discussion of the significance of these results, their importance and consistency with existing scholarship.

Different priorities may be chosen concerning the legal status of an individual, which directly depends on the legal family. In Ukraine, the results showed that formalism and clear regulation are key characteristics of the legal status of an individual, which is consistent with the findings of G. Milios (2020), who noted that the Romano-Germanic legal system favours strict codification to ensure legal certainty. Instead, the US uses a decentralised approach, where case law largely shapes the legal status of an individual, which confirms the observation of I. Wurman (2022), studied the impact of case law on the

regulation of the rights of individuals. This distinction is important because it indicates different ways of achieving legal predictability: in Ukraine, it is ensured through a unified system of rules, and in the United States, through the flexibility of case law.

The legal systems of Ukraine and the United States reflect different approaches to ensuring the legal status of individuals. The Ukrainian system, based on centralised administrative regulation, guarantees stability and predictability, which is consistent with the findings of D. Grimm (2020) regarding the importance of the doctrine of fundamental rights for the formation of a unified legal culture and ensuring the stability of legal regulation. In contrast, in the United States, where case law plays a key role, legal status is shaped by the adaptability of case law. This correlates with the position of S. Watson (2020), who notes the influence of Roman law on the Western legal tradition, emphasising the importance of flexible approaches to the protection of rights. The results show that the Ukrainian system, although it ensures clarity and uniformity of law enforcement, may be less effective in responding quickly to new social challenges. In contrast, the US system, due to its flexibility, allows for more effective adaptation to changes, although this sometimes creates legal heterogeneity between states.

Approaches to the protection of the political rights of individuals in the legal systems of Ukraine and the United States differ significantly, which affects the formation of their legal status. The analysis shows that the Ukrainian system relies on strict regulation, restricting foreigners' participation in elections and access to public service, which is consistent with the findings of J. Bäumlér (2020) on the need to restrict political rights to maintain stability in multi-level democracies such as Germany. However, in the United States, the political rights of foreigners are regulated more flexibly, which is confirmed by P. Collins (2020), who emphasises the possibility of foreigners' participation in local elections in some states. This is not consistent with the Ukrainian approach, as centralised regulation is aimed at maintaining homogeneity. The reason for these differences lies in the differences in historical traditions: The United States, as a federal state, allows states to set their own rules, while Ukraine has a unitary approach to preserve political stability.

The study also highlighted the different approaches to determining the legal capacity of an individual in the legal systems of both countries. In Ukraine, legal capacity is regulated by clear rules and age limits, which is in line with the findings of A. Phelan & P. Rickard-Clarke (2020), who emphasise the

¹ California Consumer Privacy Act. (2018, September). Retrieved from <https://oag.ca.gov/privacy/ccpa>.

importance of stable, person-centred approaches to protecting the rights of persons with diminished capacity, including older people. In the United States, legal capacity is determined at the state level, which allows for flexibility and consideration of local circumstances. According to B. Eyraud (2021), this ensures a more sensitive response to specific cases, for example, in the context of dementia, but at the same time can create heterogeneity in the application of the rules. The analysis shows that the Ukrainian system ensures predictability and uniformity for all citizens, while the American model allows for a more adaptive approach to addressing capacity issues, but at the expense of an increased risk of legal discrepancies between states.

Different levels of access to labour rights are also a significant difference between the analysed legal systems. In Ukraine, employment opportunities for foreigners are limited and are accompanied by complex administrative procedures, which is confirmed by K. Reid *et al.* (2020), who noted a high level of bureaucracy in this area. In the US, the system is more open to foreigners. J. Shannon and R. Hunter (2020) argue that the Civil Rights Act¹ significantly improved access to employment for all, including foreigners, by removing discriminatory barriers. However, this claim is inconsistent with the analysis, which shows that access to employment in the US still faces limitations, such as the complexity of employment procedures in different states and dependence on local regulations. The Ukrainian system, while requiring reforms, demonstrates less flexibility, indicating the need to reduce administrative barriers for foreigners.

Ukrainian legal regulation relies on providing stability and predictability through codified rules and clearly defined procedures, which is in line with the trends of the Romano-Germanic legal tradition. This correlates with the findings of C. Günzl (2021), who emphasises the importance of codification for maintaining legal stability. At the same time, the results of this study do not fully agree with the statements of L. Walker *et al.* (2020), who emphasise the benefits of the flexibility of the American legal system. The analysis shows that although flexibility does allow the American system to adapt to changes in social and economic conditions, it also creates risks of uneven application of rules between states, which can reduce the predictability of legal regulation. Thus, the Ukrainian model provides stability, but is less adaptive to new challenges, while the flexibility of the American system is accompanied by an increased risk of legal uncertainty.

The role of administrative control in ensuring the legal status of individuals in Ukraine is carried out through centralised supervisory bodies, which is

in line with the traditions of the Romano-Germanic legal family. This confirms the conclusions of J. Olszanowski (2020), who, analysing the model of administrative supervision in Poland, emphasises that a centralised approach contributes to the stability of legal regulation, which is also relevant for Ukraine. In contrast, in the United States, where enforcement is provided by the judicial system, flexibility and adaptability are preferred. As noted by S. Legarre & C. Handy (2020), in states that retain elements of civil law, the combination of judicial precedent and clear administrative rules allows for more effective regulation of the legal status of individuals. However, the conclusions of S. Legarre & C. Handy, who emphasise the benefits of combining the flexibility of judicial precedent with clear administrative rules, are not consistent with the results of the study. The analysis shows that such flexibility while promoting an individual approach, can lead to legal uncertainty due to different applications of the rules in different states, while in Ukraine, centralised control ensures stability and uniformity of legal regulation.

The sectoral approach to personal data protection in the United States allows for the specifics of each industry to be considered, creating flexible regulatory mechanisms. As noted by L. Bradford *et al.* (2020), such a system ensures an adequate level of protection in high-risk areas, including healthcare. However, the results of the study show that this flexibility can lead to fragmentation and uneven data protection, which makes effective oversight difficult. The universal approach used in Ukraine provides stability and predictability through a single regulatory framework. This correlates with the findings of W. Kerber & K. Zolna (2020), emphasising the importance of uniform regulation for legal stability. At the same time, the results also highlight that a one-size-fits-all model may be less effective in responding quickly to the specific needs of different industries.

The analysis of the legal status of stateless persons and refugees revealed significant differences between the systems, especially in terms of integration support. In the United States, adaptation programmes play an important role in ensuring social integration and maintaining security. As noted by L. Roots (2021), US migration policy is based on a comprehensive approach that combines legal protection with social measures. However, the analysis shows that even with this approach, the effectiveness of these programmes may depend on regional differences and limited funding, which reduces their overall effectiveness. Instead, the statement of E. Puspoayu *et al.* (2020) seems to be debatable, as they emphasise the sufficiency of basic legal protection in line with international standards, but do not

¹ Civil Rights Act. (1964, July). Retrieved from <https://www.archives.gov/milestone-documents/civil-rights-act>.

address the need for social programmes for long-term integration. The analysis shows that the Ukrainian model, which focuses only on legal status, is significantly inferior to the American model in providing comprehensive support that includes social aspects.

Thus, the identified features indicate that the formation of the legal status of an individual has characteristic differences relating to the conditions of development of different legal systems. Comparison with the works of other researchers confirms that the Romano-Germanic system seeks to ensure stability and predictability, while the Anglo-Saxon system focuses on flexibility and adaptability.

■ Conclusions

The most significant difference in the Ukrainian system is its focus on centralised regulation, which is designed to provide clarity and predictability for citizens through a single codified approach. This provides stability to the legal environment but reduces the flexibility to quickly adapt to new societal needs and changes. The American system, by contrast, relies more on judicial precedents and the capabilities of individual states, which facilitates the creation of different legal solutions following local circumstances and increases the scope for individual approaches. However, this also causes legal heterogeneity, which can create obstacles to the exercise of citizens' rights in different states.

Access to political rights in Ukraine for foreigners is much more restricted compared to the US approach, where states have the right to set individual conditions for foreigners to participate in local elections. The Ukrainian approach to legal capacity is based on fixed age limits, which ensures predictability but limits the possibility of an individualised approach, as observed in the US system, where states have the right to adapt the relevant rules. At the same time, in the United States, the area of labour rights and refugee support is more open to foreigners. In Ukraine, however, this area is subject to stricter regulation, focused on legislative restrictions, which limits the opportunities for foreigners to integrate into the country's social life and economic relations. The Ukrainian system focuses on national

interests and legal stability, which creates a stable environment but also hinders the development of more flexible approaches that are needed to adapt to new socio-economic conditions. The American system, which emphasises individual rights and social inclusion, accommodates local needs in terms of labour rights and refugee support, with each state free to set regulations. This facilitates the integration of foreigners but makes it difficult to implement a unified policy on the legal status of individuals at the national level, which creates difficulties for the exercise of rights in different jurisdictions.

Each of the legal systems forms the legal status of an individual based on specific control and management mechanisms, which create certain unique features. In the Ukrainian legal system, the main instrument is centralised supervision by state authorities, which ensures the uniform application of the rules throughout the territory. At the same time, this approach limits the possibility of rapid adaptation at the local level, which reduces flexibility in addressing specific situations. In the United States, the judicial system plays a key role in ensuring the legal status of individuals, allowing for prompt resolution of issues and providing an individualised approach. This dependence on judicial practice increases the adaptability of the legal system but may create differences in legal regulation between states.

Thus, the comparative analysis of the legal systems of Ukraine and the United States has revealed unique approaches and peculiarities in the formation of the legal status of an individual in each country. However, the focus on two countries is a certain limitation of the study, which narrows the scope of comparison. In further research, it would be advisable to expand the sample of analysed countries in different legal families to obtain a more comprehensive picture of approaches to regulating the legal status of an individual.

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■ Conflict of Interest

The author of this study declares no conflict of interest.

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Гене́за поняття і сутність правового статусу фізичної особи в романо-германській та англосаксонській правових сім'ях: порівняльний аналіз законодавства України й США

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■ **Анотація.** Дослідження було проведено з метою комплексного аналізу особливостей формування та регулювання правового статусу фізичної особи в Україні й США як представників романо-германської та англосаксонської правових систем відповідно. Здійснено порівняльний аналіз законодавчих актів і нормативних положень, які встановлюють правовий статус фізичних осіб у зазначених країнах, досліджено особливості законодавчого регулювання в цій сфері. З'ясовано, що в Україні правовий статус фізичних осіб ґрунтується на єдиному централізованому підході, де стабільність і чіткість норм сприяють правовій передбачуваності. Це полягає в суворих правилах, що стосуються чіткого визначення вікових меж дієздатності та складних процедур для іноземців і біженців у сфері трудових прав. У США правовий статус безпосередньо залежить від судової практики й законів, які різняться в кожному штаті, що дає змогу адаптувати підхід до місцевих особливостей. У сфері трудових прав і підтримки біженців американська система завдяки гнучкості забезпечує іноземцям ширші можливості для працевлаштування та швидкої адаптації. Судова підзвітність у США надає можливість одразу реагувати на порушення прав, натомість централізований нагляд в Україні гарантує однакове застосування норм у всій країні. В Україні також чітко регламентовано норми щодо захисту персональних даних, що забезпечує високий рівень конфіденційності, водночас створює певні складнощі в доступі до інформації для фізичних осіб. Крім того, важливим аспектом є суворе регулювання політичних прав, яке обмежує можливості участі іноземців у державному управлінні, акцентуючи на пріоритеті національної безпеки й стабільності. Отримані результати є важливими для чіткої характеристики та визначення розбіжностей у формуванні правового статусу фізичної особи, що втілюється в наданні пріоритету стабільності й передбачуваності в українській системі та зосередженні на адаптивності й індивідуальних правах в американській.

■ **Ключові слова:** обмежена дієздатність; антидискримінаційна норма; кодифікація; інтеграція працівників з інвалідністю; децентралізація