

establishment and investigation by the court of the factual circumstances of the case. In conclusion, it should be emphasized that in the conventional paradigm of fair justice, the requirements of procedural equality of arms and adversarial proceedings are considered related. In order for a minor case to be heard under the rules of summary proceedings, the plaintiff must not arbitrarily change the subject matter of the claim, and the increase in the amount of claims is allowed only within clearly defined limits, while the defendant must refrain from exercising his right to file a counterclaim. Action may be a court decision on the case under the rules of general claim proceedings (Part 4 of Article 193 CPC; Part 5 of Article 274 CPC). This indicates that the scope of implementation of guarantees of adversarial proceedings and procedural equality of the parties are significantly limited during the trial of minor cases.

#### **References:**

1. Giorgiantonio C. Procedure Reforms in Italy: Concentration Principle, Adversarial System or Case Management? [Text] / C. Giorgiantonio – Rome: Banca D'Italia, 2009. P. 19.
2. Jolowicz J. A. Adversarial and Inquisitorial Models of Civil Procedure [Text] / J. A. Jolowicz // I.C.L.Q. 2003. Vol. 52. P. 254.

## **THE CONCEPT OF IMPEACHMENT PROCEDURE IN UKRAINE: GENESIS AND CURRENT STATE**

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The concept of impeachment procedure in Ukraine: genesis and current state.

The article explores the issue of impeachment in Ukraine. It was analyzed the modern legal regulation of the impeachment procedure and was given an assessment in terms of relevant legislation and political realities during the years of independence of Ukraine. Also cases of attempts to remove the head of state from his post using impeachment have been researched. The article suggests some ways of improving of legislation and elimination of mistakes.

**Keywords:** impeachment, President of Ukraine, Constitution of Ukraine, The Verkhovna Rada of Ukraine, bill, special temporary investigatory committee.

### **Formulation of a scientific problem and its relevance**

The existence of the impeachment procedure has constantly attracted attention among scientists, politicians and the public. At the same time, the attitude and manner of using this procedure to remove the president from his post often did not correspond to its political and legal purpose, which led to manipulation and abuse by authorities. One of the factors in this situation is the insufficient quality of legal regulation of impeachment in Ukraine.

### **Analysis of studies of this problem**

The issue of impeachment in Ukraine was considered in scientific works of many researchers such as Sukhonos V.V., Voloshchuk O.T., Ruban A.A., Skrypnyk Yu. O., Olefir D., Moskalyuk M.F.

### **Purpose and objectives of the article**

The purpose of the article is to carry out a political and legal analysis of the concept of impeachment in Ukraine and determine the possible direction of its further development.

The objectives of the article are:

- 1) clarification of the general concept of impeachment as a political science category;
- 2) development of the concept of a special procedure for removing the president from his post in political and legal perspectives;
- 3) analysis of modern legal regulation of the procedure, identification of shortcomings and ways of their elimination .

### **Presentation of the basic material and reasoning of the results of the research**

Speaking about the concept of impeachment of the President in Ukraine, we must first turn to the definition of this political and legal category. This term was accepted means the legislative procedure for prosecuting senior officials for serious violations of the constitution or law during the exercise of their powers [1, p.27].

In the legal field of domestic legislation from 1998 to 2019, in addition to the legal consolidation of the Constitution of Ukraine, 20 different bills were created to regulate the issue of impeachment.

However, it was first seriously considered in 2001, when the Verkhovna Rada tried several times to initiate impeachment proceedings against Leonid Kuchma. He was accused of illegal sale of weapons, of organizing the beating of deputy Oleksandr Yelyashkevych. At the same time, basing on the dates of submission of documents to the relevant authorities and making a discourse into history, such initiatives remained rejected or even not considered. It is noteworthy that the impeachment's bills of the head of state were put forward during Yushchenko's presidency, but due to the circumstances, their fate was the same as with previous attempts against Kuchma.

The case of the 4th President of Ukraine Viktor Yanukovich (2010-2014) can be considered as the most successful act of impeachment in Ukraine. As a result of the Revolution of Dignity on February 22, 2014, ex-President Viktor

Yanukovich left the country. The Verkhovna Rada of Ukraine adopted by 328 votes the resolution "On the self-removal of the President of Ukraine from the exercise of constitutional powers and the appointment of elections of the President of Ukraine." Viktor Yanukovich's removal from power does not fully comply with the constitutional impeachment procedure. After all, it is necessary to create a special temporary investigatory committee to conduct a legal procedure.

The conclusions and proposals of the commission are considered at a session of the Verkhovna Rada, which, if there are grounds for at least two-thirds of its constitutional membership, decides to accuse the President of Ukraine. The decision to remove the President of Ukraine from office by impeachment is made by the Verkhovna Rada at least three-quarters of its constitutional composition after reviewing the case for compliance with its legal procedure by the Constitutional Court, which is reflected in the relevant opinion [2].

The adoption of the above-mentioned parliamentary resolution on the removal of Viktor Yanukovich from the post of head of state was rather a manifestation of "revolutionary" expediency and an attempt to effectively resolve the "force majeure" situation in the country's political life. The flight of the Ukrainian ex-president to Moscow not only gave rise to an undeclared hybrid conflict between Ukraine and Russia, but also launched a procedure in absentia, which lasted from spring 2014 to January 2019. As a result, the court convicted ex-president Viktor Yanukovich in absentia up to 13 years in prison for treason and aiding and abetting an aggressive war.

However, due to numerous appeals of lawyers of the ex-head of state, the case is still relevant [1, p. 28].

Finally, legislation has changed in the legal regulation of impeachment proceedings recently. Till that time, its legal regulation had been only in the Constitution of Ukraine, but in September 2019 the newly elected deputies of the IX convocation adopted the Law of Ukraine "On a special procedure for removal of the President of Ukraine from office (impeachment)", which specified the impeachment procedure. Thus the basis for initiating impeachment was a written petition signed by the majority of deputies of Ukraine from the constitutional composition of the Verkhovna Rada of Ukraine, which is first discussed in general and without inclusion in the agenda, then the decision to include such petition in the agenda is decided, which is a start for impeachment procedure.

Then the Verkhovna Rada of Ukraine establishes a special temporary investigatory committee. According to Article 2 of the said law, it includes deputies taking into account the principle of proportional representation of deputy factions (deputy groups), and also includes a special prosecutor and special investigators. As noted, in the case of election of a special prosecutor and a special investigator of a People's Deputy of Ukraine, the principle of proportional representation of the deputy faction (deputy group) in the special

temporary commission of inquiry is taken into account. At the same time, the candidacy of the special prosecutor to the special committee is submitted by the initiators of the consideration, and the candidacies of the special investigators are the parliamentary factions (deputy groups).

Given the existence of a mono-coalition of the party to which President Volodymyr Zelensky belongs, such procedure commission is questionable regarding the impartiality of its members.

In addition, each candidate for the position of special prosecutor or special investigator must submit to the Verkhovna Rada of Ukraine an identity card, a declaration of a person authorized to perform state or local government functions for the past year in the manner prescribed by law. It may cause undue delay in the impeachment process.

This legal situation virtually nullifies the chances of the implementation of impeachment threats in the situation of the closure three TV channels (ZIK, NewsOne and "112 Ukraine") by current President of Ukraine, which are owned by deputies from the political party "OPZZH". The initiative is destroyed not only by the legal matters, but also by the political matters, as there are neither 338 votes nor a crisis situation convenient for the above-described procedure for such decisions. At the same time, the announced statement of the "OPZZH" on the beginning of the collection of signatures for the impeachment of president in the regions is nothing more than a regular PR campaign, which does not entail any legal consequences [4].

### **Conclusions and prospects for further research**

So, we can conclude that in general, from the time of the adoption of the Constitution of Ukraine until today, the institution of impeachment continues to be the object of political red tape and manipulation, rather than a real legal mechanism of influence. The impeachment procedure remains ineffective and needs to be improved, at least in terms of increasing the quality and professionalism of the investigation by a special temporary investigatory committee. We consider this topic as a prospect for further research in the field of impeachment proceedings in Ukraine.

### **References:**

1. Boida A. V. Protsedury impichmentu ta ekstradytsii hlav derzhav na postradianskomu prostori (2020) [Procedures for impeachment and extradition of heads of state in the post-Soviet space] // Sotsialno-humanitarni doslidszhennia ta innovatsiina osvitiia diialnist. Materialy II Mizhnarodnoi naukovoii konferentsii. 26–27 chervnia 2020 r., m. Dnipro / Nauk. red. O. Yu. Vysotskyi. Dnipro: SPD «Okhotnik», 2020. p. 27–29.
2. Konstytutsiia Ukrainy (1996) [Constitution of Ukraine]// Law of Ukraine from 28.06.1996 № 254k / 96-BP // Verkhovna Rada of Ukraine [Electronic resource]: Available from: <https://zakon.rada.gov.ua/laws/show/254k/96-bp> (addressed: 11.03.2021).
3. Zakon Ukrainy "Pro osoblyvu protseduru usunennia Prezydenta Ukrainy z posta (impichment)". [Law of Ukraine "On the Special Procedure for Impeachment of the President of Ukraine] [Electronic resource]: Available from: <https://zakon.rada.gov.ua/laws/show/39-20#Text> (addressed: 11.03.2021).

4. "OPZZh" initiates impeachment of Zelenskyy: how Rada reacted to the statement [Electronic resource]: Available from: <https://www.5.ua/suspilstvo/opzzh-initsiiuie-impichment-zelenskomy-iak-u-radi-vidreahuvaly-na-zaiavu-siuzhet-236096.html> (addressed: 11.03.2021).

## **THE DEVELOPMENT OF DEMOCRACY AS A RESULT OF SOCIAL TRANSFORMATIONS**

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Democracy is a political and legal phenomenon, the development of which occurs simultaneously with social transformations and is conditioned by them. The power of the people was initially reflected in the tribal or direct, in the military, combined with despotism, democracy. Later, the formation of city-states in ancient Athens contributed to the development of direct democracy, and in the days of ancient Rome, samples of combining elements of democracy with other forms of government were tested. After a long oblivion, the democratic idea was revived by Western European philosophers of the seventeenth and eighteenth centuries. Within the framework of discussions on the ideal arrangement of the state and society under the new conditions of development of science, industry, and mass communication, a new concept of representative democracy, which is still a classic for political science, has been proposed to address the problems associated with the implementation of democracy in complex state formations.

To date, there is no single conceptual approach among researchers to identify the main problems of modern democracy. This is primarily due to the scope of the concept of "democracy"; it requires a thorough methodological and practical study. Of course, the main problems are those related to the implementation of the principle of democracy in modern society. If we talk about "society" in a broad sense, i.e. covering absolutely all people living on our planet, the concept of democracy is unknown to the majority of the population of our planet, due to the historical and socio-economic development of individual regions of our planet and the population of these regions. Thus, we will understand the term "society" as a developed society, able to understand the basic principles of modern democracy, able to understand the nature of democracy and the importance of this concept for the proper functioning of modern society. Let us dwell in more detail on the analysis of the problems of a democratic society in Ukraine.

In my opinion, the first problem in defining the problems of the development of a democratic society is the definition of the concept of