

# COMPARATIVE ANALYSIS OF PROSECUTORIAL SYSTEMS: INSIGHTS FROM THE UNITED STATES AND EUROPEAN COUNTRIES

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**Abstrak:** Penelitian ini menggunakan pendekatan kualitatif dengan fokus pada studi perbandingan dan analisis dokumen. Pendekatan ini dirancang untuk mengeksplorasi peraturan hukum dan sistem organisasi kantor kejaksaan di Amerika Serikat, negara-negara Eropa, dan Ukraina. Data dikumpulkan melalui tinjauan pustaka terhadap konstitusi, undang-undang, dan dokumen resmi lainnya yang relevan, seperti laporan dari organisasi internasional, keputusan pengadilan, dan kode etik kejaksaan. Analisis dilakukan dengan menggunakan metode perbandingan, di mana sistem kejaksaan dari berbagai negara dibandingkan berdasarkan beberapa kriteria utama. Kriteria ini mencakup struktur organisasi, tingkat independensi, kewenangan hukum, dan efisiensi sumber daya manusia dan pendanaan. Pendekatan ini memungkinkan identifikasi praktik terbaik yang dapat diterapkan untuk mengatasi tantangan lokal di Ukraina. Data dianalisis secara tematis untuk mengidentifikasi pola, perbedaan, dan kesamaan di antara sistem kejaksaan yang diteliti. Misalnya, sistem desentralisasi di Amerika Serikat dibandingkan dengan model terpusat di Jerman dan Prancis untuk menilai implikasinya terhadap efektivitas manajemen kasus. Analisis ini juga mencakup evaluasi kemampuan jaksa untuk menangani kasus-kasus khusus, seperti investigasi kejahatan perang, serta integrasi dengan standar internasional yang berlaku. Sebagai langkah terakhir, penelitian ini memvalidasi temuan melalui triangulasi sumber untuk memastikan keakuratan dan kredibilitas data. Pendekatan ini memberikan dasar yang kuat untuk mengembangkan rekomendasi guna mereformasi sistem kejaksaan di Ukraina yang berorientasi pada prinsip-prinsip supremasi hukum, perlindungan hak asasi manusia, dan efektivitas operasional.

**Kata Kunci:** Kantor Kejaksaan, Organisasi Kantor Kejaksaan, Model Kantor Kejaksaan Negara Asing

**Abstract:** This research used a qualitative approach with a focus on comparative studies and document analysis. The approach was designed to explore the legal regulations and organizational systems of prosecutors' offices in the United States, European countries, and Ukraine. Data were collected through a literature review of relevant constitutions, laws, and other official documents, such as reports from international organizations, court decisions, and prosecutorial codes of ethics. The analysis was conducted using a comparative method, whereby prosecutorial systems from different countries were compared based on several key criteria. These criteria included organizational structure, level of independence, legal authority, and efficiency of human resources and funding. This approach enabled the identification of best practices that could be applied to address local challenges in Ukraine. Data were analyzed thematically to identify patterns, differences, and similarities among the prosecutorial systems studied. For example, decentralized systems in the United States were compared with centralized models in Germany and France to assess their implications for case management effectiveness. The analysis also included an evaluation of the prosecutor's ability to handle specialized cases, such as war crimes investigations, as well as integration with applicable international standards. As a final step, the research validated the findings



through source triangulation to ensure the accuracy and credibility of the data. This approach provided a solid basis for developing recommendations for reforming the prosecutorial system in Ukraine oriented towards the principles of the rule of law, protection of human rights, and operational effectiveness.

**Keywords:** Prosecutor's Office, Organization of the Prosecutor's Office, Model of the Prosecutor's Office of Foreign Countries

## INTRODUCTION

The current stage of development of foreign countries in some aspects, and especially in the field of protection of rights and freedoms, is ahead of Ukraine's experience. In the light of permanent reforms in Ukraine and given the desire of Ukraine to join the European community, from our point of view it is useful to study the experience of functioning of state legal institutions, in particular, that of the prosecutor's office in the USA and some countries of the European community. In our opinion, research of the experience in the sphere of building a system of prosecutor's offices is of particular importance, for the purpose of clarifying Ukraine's further steps in this area. From our point of view already existing studies are not sufficient today, because they are mostly based on previously conducted studies and they do not take into account many aspects of modern legal regulation and changes that are made to the current legislation, including in foreign countries.<sup>1</sup>

Lapkin A. notes that in the context of studying international standards of prosecutorial activity the factors of foreign influence are the reverse aspect of their influence on the national model of the prosecutor's office, which is the displacement of its unique internal features in favor of general external ones, which is generally inherent in the processes of globalization.<sup>2</sup> Voytovych R points out that globalization does not always have a positive effect on national development, since only highly developed countries benefit from it, thanks to the fact that they manage to expand the boundaries of their influence on other countries, while transitional societies are not ready to face their challenges. If a separate state has an effective national strategy for social development, it will be quite cautious about external influences.<sup>3</sup> With regard to the influence of international standards on the prosecutor's office of Ukraine, this was manifested in the fact that they did not so much complement but faster replaced its national characteristics. To a large extent, this was due to the fact that due to ideological and political reasons when forming the standards of prosecutorial activity, their developers (at least at the initial stage) actually did not take into account experience of functioning of the prosecutor's offices of the post-Soviet states, including Ukraine, moreover, they considered it as negative in the light the Soviet past.<sup>4</sup>

Today, in Ukraine, there is a small amount of research on foreign experience of administrative and legal regulation of the organization and activities of the prosecutor's office, which does not allow to clearly define construction models of this body of state

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<sup>1</sup> Muhammad Wahdini, Kamsi Kamsi, dan Hasse Jubba, "Environmental Governance in Indonesia: Muhammadiyah's Role, State Intervention, and Legal Practice Dynamics," *Syariah: Jurnal Hukum Dan Pemikiran* 24, no. 1 (29 Mei 2024): 189–205, <https://doi.org/10.18592/sjhp.v24i1.12897>.

<sup>2</sup> Lapkin A.V. Prosecutor in criminal proceedings: theoretical, legal and organizational and methodological problems: monograph. Kharkiv: Pravo, 2020. 1304.

<sup>3</sup> Voytovych R. Globalization as a universal form of historical dynamics of transitional societies. Bulletin of the National Academy of Public Administration under the President of Ukraine. 2012. No. 1. P. 21–32.

<sup>4</sup> Abu Bakar dkk., "False Descendants of the Pontianak Sultan: The Practice and Legal Implications of Genealogical Fraud," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 2 (28 Desember 2024): 251–78, <https://doi.org/10.18326/ijtihad.v24i2.251-278>.

power, and to find out the possibilities of introducing foreign experience into the legal system of Ukraine. At the same time, in this direction we should point out the thesis of O.<sup>5</sup> V. Khorusunenko “The Prosecutor’s Office of Ukraine and the member countries of the European Union: a comparative study”<sup>6</sup>; in this thesis the author conducted a comprehensive study, found out the main shortcomings of the prosecutor’s office models in the countries of the European Community and came to the conclusion that “the legal status of the prosecutors of the EU member states largely depends on the place that the prosecutor’s office occupies in the system of the state authorities, which affects the procedure, term and definition of the subject of the appointment of prosecutors at different levels, and at the same time it was concluded that each EU member state establishes and guarantees independence of prosecutors in exercising their powers.”<sup>7</sup>

One may also point out the thesis by S. L. Nazaruk “Administrative and legal support of the activities of the prosecutor’s office of Ukraine and the leading countries of the European Union: comparative study”, where the author correctly determined that “a comparative study of the administrative and legal support of activities performed by the prosecutor’s office of Ukraine and those of the leading EU states makes it possible to identify and single out relevant measures aimed at improving the administrative and legal support of the activities inherent to the prosecutor’s office of our country”.<sup>8</sup>

*The purpose of the article* is to reveal peculiarities of the modern legal regulation of the organization and activities of the prosecutor’s office of the United States and some countries of the European Union as well as clarify possible prospects of applying positive foreign experience in prosecutor’s activities in Ukraine.<sup>9</sup>

## METHODS

The method of dialectics involves the study of phenomena and processes in their dynamic development, interaction with other phenomena and processes. One of the postulates of dialectics is the expression: "Everything flows, everything moves, everything changes, you cannot enter one and the other same river twice". The method of dialectics includes the law of unity and struggle of opposites, the law of transition of quantitative changes into qualitative ones and the technique of "negation of negation". Yes, in the process of researching the administrative and legal foundations of the organization and activities of the prosecutor’s office at the regional level level, it is necessary to take into

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<sup>5</sup> Ahmad Musonnif dkk., “Government Position in Religious Authority Contestation in Indonesia: Reviewing the Government Authority in Determining the Beginning of Islamic Months,” *De Jure: Jurnal Hukum Dan Syar’iah* 16, no. 2 (17 Desember 2024): 336–62, <https://doi.org/10.18860/j-fsh.v16i2.27517>.

<sup>6</sup> Khorsunenکو O. V. Prosecutor’s office of Ukraine and the member countries of the European Union: a comparative study: dissertation. ... candidate law of Sciences: 12.00.10 / Odesa Jurid. Acad. Odesa, 2019. 221 p. Repository of the National University of Odesa Law academy”: <https://dspace.onua.edu.ua/items/98b34aad-7a94-4cd4-9f92-c1ade3f875df>

<sup>7</sup> Voloshanivska, Tetiana, Inna Pozihun, Serhii Losych, Olha Merdova and Yevhen Leheza. ‘Administrative and Criminal Law Aspects of Preventing Offenses Committed by Minors in the Sphere of Illegal Circulation of Narcotic Drugs, Psychotropic Substances and Precursors’. *Journal of Drug and Alcohol Research*, 12(10) (2023). <https://doi.org/10.4303/JDAR/236269>

<sup>8</sup> Nazaruk S. L. Administrative-legal support of the activities of the prosecutor’s office of Ukraine and the leading countries of the European Union: a comparative study: diss. ... doctor of philosophy: 081 "law" / Govt. teacher. Univ. named after V. Vinnichenko. Kropyvnytskyi, 2021. 235 p. Central Ukrainian State Repository V. Vinnichenko University. [https://cusu.edu.ua/images/autoreferats/2021/Nazaruk/D\\_Nazaruk.pdf](https://cusu.edu.ua/images/autoreferats/2021/Nazaruk/D_Nazaruk.pdf).

<sup>9</sup> Saifuddin Herlambang dkk., “Ḥusn Al-Jawāb ‘an Ithbāt al-Ahillah Bi al-Ḥisāb: Basyūnī ‘Imrān’s Method for Standardising the Determination of the Qamariyah Month in the Sultanate of Sambas (1913-1976),” *Journal of Islamic Law* 5, no. 2 (21 Agustus 2024): 222–41, <https://doi.org/10.24260/jil.v5i2.2775>.

account the unity of the system of all criminal justice bodies, because each subject of power is a representative of the state, public administration.<sup>10</sup>

The article also uses the statistical method. Implementation of procedural guidance in criminal proceedings regarding war crimes. For example, as of the beginning of April 2024, prosecutors' offices are implementing procedural guidance in relation to criminal proceedings regarding one of the following categories of war crimes: crimes committed against journalists. In particular, regional prosecutors' offices are implementing procedural guidance in relation to 92 criminal proceedings regarding war crimes against journalists, and the Prosecutor General's Office is implementing procedural guidance in relation to 7 proceedings. Maintaining statistics on registered war crimes and the results of their pre-trial investigation. The system of prosecutors' offices maintains statistics on registered war crimes and the results of their pre-trial investigation in order to prepare analytical reports and conduct a well-founded pre-trial investigation of this category of criminal offenses, which allows ensuring openness and transparency in the investigation of military actions and bringing them to justice. In particular, in the period from January to March 2024, 6,464 criminal offenses were recorded under Article 438 of the Criminal Code of Ukraine "Violation of the Laws and Customs of War", of which 23 persons were served with a notice of suspicion, and only in one case was an indictment drawn up and the proceedings sent to court. In total, 100,666 war crimes were recorded for the period from the full-scale Russian invasion to August 2023.<sup>11</sup>

Representation of the prosecution in war crimes trials. In particular, according to the Department of Supervision of Criminal Proceedings on Crimes Committed in Armed Conflict of the Prosecutor General's Office, as of August 2024, 390 people have the status of suspects and have committed war crimes, 55 people have been convicted, 700 representatives of the military-political leadership of Russia have been suspected in absentia.<sup>12</sup>

Public interest, which is realized in the activities of the prosecutor's office, private interests of individuals and legal entities are often opposed persons, but the task of the prosecutor's office is to protect the public interests of society and the state. The art of the professional activity of the prosecutor is to achieve an optimal balance between the specified opposing interests, to ensure social compromise, which consists in observing the principles of the rule of law and legality by all participants in legal relations, which law and order and the appropriate level of rights protection are ensured and human freedoms.<sup>13</sup>

The law of the transition of quantitative to qualitative changes is most clearly manifested in the activities of the prosecutor's office, in the process of implementing the functions of the prosecutor's office provided for by the Constitution of Ukraine.

The number of indictments sent to the court, civil lawsuits regarding the protection of the state's interests in court, number of considered and satisfied appeals and complaints of citizens is transformed into qualitative indicators of the state of law and order (decrease

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<sup>10</sup> Edi Gunawan dkk., "Interfaith Marriage of North Sulawesi Multicultural Community in Minority Fiqh Perspective," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 19, no. 2 (18 Oktober 2024): 384–412, <https://doi.org/10.19105/al-lhkam.v19i2.8072>.

<sup>11</sup> On registered criminal offenses and the results of their pre-trial investigation. 2024. *General Prosecutor's Office of Ukraine* <https://gp.gov.ua/ua/posts/pro-zareyestrovani-kriminalni-pravoporushennya-ta-rezultati-yih-dosudovogo-rozsliduvannya-2>

<sup>12</sup> Abidin Nurdin dkk., "Mappatammaq Mangaji in Mandar, West Sulawesi: Childrearing Patterns Based on the Qur'an in the Anthropological Perspective of Islamic Law," *El-Ushab: Jurnal Hukum Keluarga* 7, no. 2 (10 Oktober 2024): 501–20, <https://doi.org/10.22373/ujhk.v7i2.25338>.

<sup>13</sup> Hamsah Hasan dkk., "Navigating Family Relationships to Political Choice: The Role of the Head of Muslim Household as Agency," *Al-Ahkam* 34, no. 2 (31 Oktober 2024): 317–40, <https://doi.org/10.21580/ahkam.2024.34.2.21478>.

in the level of crime and corruption), compliance with the rule of law and the level of trust of citizens in law enforcement agencies in general and prosecutor's offices in particular.<sup>14</sup>

It is also necessary to actively apply the technique of "denial of denial" in the process of researching the administrative and legal foundations of the organization and activities of the prosecutor's office at the regional level. For example, at first the researcher denies the expediency of reforming certain divisions of the regional prosecutor's office, but then refutes the rationale of the initial objection and proves the necessity of the corresponding reformation processes.

The article uses the comparative legal research method cooperation with international law enforcement agencies and international justice bodies and foreign states in the field of documentation and investigation of war crimes.

The Prosecutor General's Office cooperates with the International Criminal Court, in particular by providing the relevant evidence base for war crimes. It should be noted that the overwhelming majority of war crimes will be investigated by the Ukrainian law enforcement and judicial system, since the function of the International Criminal Court is purely auxiliary, since the court's resources are limited and can be used to bring to criminal responsibility the highest military-political leadership of the Russian Federation.<sup>15</sup>

The Prosecutor's Office also cooperates with the Joint Investigation Team (JIT), which operates with the support of Eurojust, Europol, the International Criminal Court and the memorandum of cooperation with the United States. JIT is the largest international institution in world history that documents war crimes, and its members include representatives from Ukraine, Lithuania, Poland, Latvia, Estonia, Romania, and Slovakia. In particular, during the JIT's activities, one of the tasks of the Polish prosecutor's office is to collect and document the testimonies of Ukrainians who are on Polish territory and are victims or witnesses of war crimes committed by the Russian military in Ukraine, which can later be used in the context of investigations into this category of criminal offenses. Cooperation of the prosecutor's office with the International Center for the Prosecution of Crimes of Aggression against Ukraine (ICPA), which carries out its functions under the leadership of the European Union Agency for Criminal Justice Cooperation and includes national prosecutors who work as part of the JIT. In particular, representatives of Latvia, Lithuania, Poland, Estonia, Romania, the Netherlands and the US Special Prosecutor for the Crime of Aggression cooperate within the framework of the ICPA in order to overcome the gaps in international law regarding the legal mechanisms for the prohibition of aggression.<sup>16</sup>

Cooperation with non-governmental and public organizations, journalists, on the collection of information and investigation of war crimes. For example, the Anti-Corruption Headquarters team created the Register of War Criminals, which contains information on more than 160 thousand Russian military personnel, which can be used in the documentation and investigation of war crimes.<sup>17</sup>

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<sup>14</sup> Suprijati Sarib dkk., "Polygamy among Muallaf in Manado: Islamic Legal Perspectives and Social Challenges," *JURIS (Jurnal Ilmiah Syariah)* 23, no. 2 (9 September 2024): 241–52, <https://doi.org/10.31958/juris.v23i2.12307>.

<sup>15</sup> Basar Dikuraisyin dkk., "Reconstruction of Marriage Law: Judges' Progressive Reasoning Based on Maqāṣid in Addressing Divergent Interpretations in Indonesian Courts," *Al-Manabij: Jurnal Kajian Hukum Islam*, 16 Agustus 2024, 237–54, <https://doi.org/10.24090/mnh.v18i2.9436>.

<sup>16</sup> Members of the Joint Investigation Team (JIT) to investigate serious international crimes in Ukraine have signed an agreement to extend its work for another two years. 2024. Ukrinform. <https://www.ukrinform.ua/rubric-society/3833943-spilna-slidca-grupa-z-voennih-zlociniv-vukraini-pracuvatime-se-dva-roki-evroust.html>

<sup>17</sup> Sheila Fakhria dkk., "Securing Muslim Children's Civil Rights: Debate on State Legal Policy towards The Issuance of Family Cards for Unregistered Marriage Couples," *El-Mashlahah* 14, no. 2 (26 Desember 2024): 303–22, <https://doi.org/10.23971/el-mashlahah.v14i2.8008>.

Investigation of certain categories of war crimes. For example, the threat to nuclear energy facilities, the undermining of the Kakhovka hydroelectric power station, the destruction of the Askania-Nova funds and others, are war crimes that cause damage to the environment. As of early March 2024, specialized environmental prosecutors' offices are conducting procedural management of more than 200 criminal proceedings in the field of environmental protection related to the armed aggression of the Russian Federation. An important aspect of the prosecutor's office's activities in this area within the framework of the work of the International Council of Experts on the Investigation of Crimes is cooperation with public, international and scientific organizations that contribute to the recording of war crimes, monitoring the state of the environment and determining the amount of environmental damage (for example, the explosion of the Kakhovka hydroelectric power station by the Russian military on June 6, 2023 caused an estimated UAH 146 billion in environmental damage).<sup>18</sup>

## RESULT AND DISCUSSION

At the current stage, development of the prosecutor's office is connected with the approval of the general principles of its activity at the international level, with the preservation of various organizational and functional models based on the peculiarities of national legislation.<sup>19</sup>

At the same time, there is no single model of the prosecutor's office in the world, and each separate model has its own shortcomings and advantages; and in connection with this we believe that the prosecutor's office should be determined from the point of view of the social and political conditions of its organization and functioning, taking into account peculiarities of national states, and based on the mentality of this or that society.

Therefore, from the point of view of understanding the role and place of the prosecutor's office, it is quite important to study experience of foreign countries regarding the basic principles of the prosecutor's office on the example of the United States of America (hereinafter - the USA) and some European countries.<sup>20</sup>

Thus, in the USA, the prosecutor's office is called the "attorney's office" headed by the US Federal Prosecutor or a federal attorney, whose position was introduced in 1789 in the Judiciary Act of 1789 (Law on the Judiciary).<sup>21</sup> The federal attorney is appointed to the position, including based on the provisions of Section 2 of Art. 2 of the US Constitution.<sup>22</sup> According to the US Code (28 U.S. Code § 541) The federal attorney is appointed to the position by the President of the United States with the consent of the Senate of the United States for a four-year term, at the same time, at the end of the term, he/she continues his/her activity until his/her successor is appointed to the position.<sup>23</sup>

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<sup>18</sup> Ukraine has recorded 100,666 war crimes" – head of the "war department" of the Prosecutor General's Office. Radio Svoboda. URL: <https://www.radiosvoboda.org/a/news-ponad-100-tysyach-vojenyih-zlochyniv-ogp/32552714.html>

<sup>19</sup> Musda Asmara dkk., "Tabot Ritual in Islamic Law: Philosophical Reflections on Sunni and Shiite Harmonization," *AHKAM: Jurnal Ilmu Syariah* 24, no. 2 (1 Desember 2024): 251–62.

<sup>20</sup> Muh Afif Mahfud dan Naufal Hasanuddin Djohan, "The Expansion of Investor Access to Cultivation Rights: A Socio-Legal Analysis on Agrarian Injustice in Indonesia," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 24, no. 2 (30 Desember 2024): 55–67, <https://doi.org/10.30631/alrisalah.v24i2.1500>.

<sup>21</sup> Judiciary Act of 1789. *The Library of Congress*. <https://memory.loc.gov/cgibin/ampage?collId=llsl&fileName=001/llsl001.db&recNum=196>.

<sup>22</sup> Constitution of the United States written in 1787, ratified in 1788, and in operation since 1789. *United States Senate*. <https://www.senate.gov/about/originsfoundations/senate-and-constitution/constitution.htm>.

<sup>23</sup> Organizational structure of the US Department of Justice. *US Department of Justice*. <https://www.justice.gov/our-work>.

Among other things, unlike in Ukraine, the Federal Attorney in the USA is the head of the United States Department of Justice (Justice Department), but this Department should be distinguished from the Ministry of Justice of Ukraine, because in the USA it is essentially the headquarters of the Federal Attorney, namely thanks to the Department of Justice, the Federal Attorney General regulates activities of federal attorneys, in federal judicial districts.<sup>24</sup>

In the USA, there is an attorney service (Executive Office for United States Attorneys "EOUSA"), that is, an institution of state power that has no analogue in any other part of the world. The EOUSA was created in 1953 on the basis of the Attorney General Order No. 8-53 in order to ensure constant interaction between the Department of Justice and 93 US Attorneys located respectively in the 50 states, the District of Columbia, Guam, the Mariana Islands, Puerto Rico and the US Virgin Islands. Thus, the U.S. Attorney's Office is a totality of U.S. executive authorities, including at the state level and local levels, that advises the government at the appropriate level, represents interests of the Government in court, and ensures general implementation of the existing legislation. Among other things, the US Attorney's Office acts as a prosecution service, it has the right to initiate a criminal case, investigate cases of violations of existing law, prosecute and support prosecutions in court.<sup>25</sup>

The Federal Prosecutor's Office in the United States has its own investigative bodies, including the FBI, and it is only one of the law enforcement agencies that is subordinate to the Ministry of Justice. Among other things, the Ministry of Justice is subordinated to the service of marshals, or as we say bailiffs, the administration dealing with narcotics, the bureau controlling implementation of laws on alcoholic products, tobacco products and criminal distribution of narcotic substances.<sup>26</sup>

At the same time, it should be noted that in the USA the prosecutor's office is a completely independent body, which, according to T. Peebles, is achieved through a properly organized crime prevention system, and the prosecutor's office acts based on the following priorities: high professional competence with knowledge of crime and its high-tech means; an exclusive emphasis on professional aspects and a rather significant sensitivity to the violation of human rights; emphasis on effective cooperation with counteraction bodies, including in the spheres of global threats of crime and terrorism.<sup>27</sup>

Thus, the prosecutor's office in the USA is a body that conducts criminal prosecution, supports public prosecution and participates in court hearings as a representative body of public authority. The prosecutor's office is characterized by decentralization and lack of supervisory powers. From an organizational point of view, the prosecutor's office in the USA is more drawn not to a state authority, but to a kind of professional corporation of lawyers, who at the same time are in the civil service of representatives of public authorities.

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<sup>24</sup> General structure of EOUSA. *Offices of the United States Attorneys*. <https://www.justice.gov/usao/eousa/organizational-chart>

<sup>25</sup> Leheza, Yevhen, Larysa Yerofieienko, and Volodymyr Komashko. 'Peculiarities of Legal Regulation of Intellectual Property Protection in Ukraine under Martial Law: Administrative and Civil Aspects'. *Revista Justiça Do Direito* 37, no. 3 (2023): 157–72. <https://doi.org/10.5335/rjd.v37i3.15233>.

<sup>26</sup> Mohammad Ghozali dkk., "The Law Concept of Sharia Banking Compliance on Murabaha Financing in Indonesia," *Samarab: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (24 Agustus 2024): 1391–1408, <https://doi.org/10.22373/sjhk.v8i3.11313>.

<sup>27</sup> The Changing Role of the American Prosecutor / John L. Worrall, M. Elaine Nugent-Borakove. Albany: State University of New York Press. 2008. 284. *ResearchGate*. [https://www.researchgate.net/profile/Hung-En-Sung/publication/258839592\\_Prosecutor\\_and\\_Treatment\\_Diversion\\_The\\_Brooklyn\\_NY\\_Drug\\_Treatment\\_Alternative\\_to\\_Prison\\_Program/links/0deec5292b9d4477dd000000/Prosecutor-and-Treatment-Diversion-The-Brooklyn-NY-Drug-Treatment-Alternative-to-Prison-Program.pdf](https://www.researchgate.net/profile/Hung-En-Sung/publication/258839592_Prosecutor_and_Treatment_Diversion_The_Brooklyn_NY_Drug_Treatment_Alternative_to_Prison_Program/links/0deec5292b9d4477dd000000/Prosecutor-and-Treatment-Diversion-The-Brooklyn-NY-Drug-Treatment-Alternative-to-Prison-Program.pdf)

In European countries, the system of prosecution differs significantly from that of the United States. Thus, in Germany, according to the Law on the Constitutional Court (Article 149 GVG), the Federal Prosecutor General (Generalbundesanwalt) and federal prosecutors are appointed by the President of the country on the proposal of the Minister of Justice and with the approval of the Bundesrat.<sup>28</sup> According to the German Federal Civil Service Act (5BBG), the Federal Prosecutor General, federal prosecutors, senior prosecutors are appointed for life and are civil servants.<sup>29</sup> At the same time, with regard to the Federal Prosecutor General, he/she acts, including as a political figure and can be dismissed by the Minister of Justice at any time. At the same time, the Law provides that no justification is required for this.<sup>30</sup>

It is known that in Germany the organizational structure of the prosecutor's office is divided into federal one and state one, which follows from the provisions of the Order on the Organization and Procedure of the Prosecutor's Office in Germany dated 12 March, 1975.<sup>31</sup>

From our point of view this experience of Germany can be useful for Ukraine regarding the issue of significant independence of prosecutors and a fairly high level of their material and technical support.

The French prosecutor's office also has its peculiarities. The legal regulation of the activities of the prosecutor's office in France takes place at the level of the French Constitution of 1958,<sup>32</sup> the Criminal Procedure Code of France (Articles 31-48 of the Section "On the Prosecutor's Office"),<sup>33</sup> the Judicial Code of 1978, and the French Code of Civil Procedure).<sup>34</sup>

As in Germany, the French prosecutor's office is subordinate to the Ministry of Justice, and is a centralized system of bodies. The Prosecutor General performs his/her activities at the Court of Cassation. The structure includes assistants of the Prosecutor General, who are the First Advocate General and 19 advocates general. The General Prosecutors and their assistants also act at the courts of appeal, to which the prosecutors of the Republic (les procureurs de la République) being in the sphere of influence of these courts are subordinated accordingly. The prosecutors of the Republic are the district prosecutors at the tribunals, who mostly handle civil cases. All prosecutors are appointed by the President of France on the proposal of the Minister of Justice, who directly supervises their activities. In terms of their status, prosecutors are quite close to judges, with some exceptions, but they conduct their activities based on the same principles. The main organizational principles of the prosecutor's office include integrity, independence,

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<sup>28</sup> Gerichtsverfassungsgesetz (GVG) Bundesrecht: in der Fassung vom 09.05.1975, zuletzt geändert am 08.10.2023. *Justiz-online*. [https://www.lexsoft.de/cgi-bin/lexsoft/justizportal\\_nrw.cgi?xid=137459,1](https://www.lexsoft.de/cgi-bin/lexsoft/justizportal_nrw.cgi?xid=137459,1).

<sup>29</sup> Für Beamte: Bundesgesetz Bundesbeamtengesetz vom 05.02.2009, zuletzt geändert am 17.07.2023. *BBG-Bundesbeamtengesetz*. [https://www.gesetze-iminternet.de/bbg\\_2009/BJNR016010009.html](https://www.gesetze-iminternet.de/bbg_2009/BJNR016010009.html).

<sup>30</sup> Leheza, Yevhen. Yurovska, Viktoriia. Zamryha, Artur. Ulozhenko, Vadym, Bohdan. Bohdana 2024. Administrative and legal regulation of the status of internally displaced persons in Ukraine during the war. *University of western Australia law review*. 51 (2). 297-313. <https://www.uwa.edu.au/schools/-/media/documents/uwa-law-review/volume-51-issue-2/leheza-et-al-formatted.pdf>

<sup>31</sup> Anordnung über Organisation und Dienstbetrieb der Staatsanwaltschaft (OrgStA): vom 04.07.1995, letzte Änderungen vom 01.04.2014. *Niedersächsisches Vorschrifteninformationssystem (NI-VORIS)*. <https://voris.wolterskluweronline.de/browse/document/6edf9705-df13-3d63-abba-0e51afbe0c52>

<sup>32</sup> Constitution du 04.10.1958. *La Constitution le bloc de constitutionnalité*. <https://www.conseil-constitutionnel.fr/le-bloc-de-constitutionnalite/texte-integral-dela-constitution-du-4-octobre-1958-en-vigueur>

<sup>33</sup> Code de procédure pénale au 31.12.1957. *République Française Légifrance*. [https://www.legifrance.gouv.fr/codes/texte\\_lc/LEGITEXT000006071154/](https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006071154/).

<sup>34</sup> Code de procédure civile au 30.12.1976. *République Française Légifrance*. [https://www.legifrance.gouv.fr/codes/texte\\_lc/LEGITEXT000006070716/](https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006070716/).

subordination and responsibility. The court and the prosecutor's office thus form a single corps and have the right to change the position of a prosecutor to position of a judge and vice versa during the career.<sup>35</sup>

In the event that the prosecutor violates the law during a criminal prosecution, he/she is not responsible, the prosecutor is not held liable for reimbursement of court costs, he/she shall not compensate for damages to the convicted person, which mostly represents a certain guarantee of independence and relieves the prosecutor of the need to participate in cases related to his/her persecution by citizens. Thus, taking into account the above, the French prosecutor's office is a body independent from the court or from the parties to criminal proceedings.

According to the French Code of Criminal Procedure, officials and agents of the judicial police are under the supervision of the Prosecutor General, who has the right to instruct them to collect the necessary information if it is important for the administration of justice. The Prosecutor of the Republic accordingly manages the judicial police, receives information about crimes from the police, gives instructions on the investigation, monitors the police's compliance with the law. The prosecutor has the right to come directly to the scene of the crime instead of the police and can himself/herself carry out all the actions that are actually assigned to the judicial police, also the Prosecutor of the Republic personally or through deputies supports the prosecution in jury court, police or correctional tribunals, and has the right to issue orders to search for criminals.

Thus, in contrast to Ukraine, the prosecutor's office in France is not just independent, but, among other things, it can actually replace the body of inquiry and, in general, carry out all the necessary investigative actions in the case, and the difficulty of distinguishing powers of the prosecutor in the civil process in the legislation makes the French prosecutor's office similar to the German prosecutor's office, where this issue is also not sufficiently regulated.<sup>36</sup>

In the countries of the former Soviet socialist camp the prosecutor's office also has its peculiar features. Thus, according to the Constitution of Estonia, in Article 151, it is quite succinctly defined that the procedure for maintaining the prosecution and representation in court is established by law.<sup>37</sup> According to the Statute on the Prosecutor's Office, the Estonian Prosecutor's Office is a state institution subordinate to the Minister of Justice. The Ministry of Justice is defined as the highest state body of the prosecutor's office. Thus, prosecutors are accountable to the Minister of Justice, who oversees activities of the prosecutor's office in criminal proceedings.

The prosecutor's office system is directly managed by the Prosecutor General, who is appointed to the position by the government on the proposal of the Minister of Justice for a term of five years. The prosecutor's office manages the pre-trial criminal investigation, supports the state prosecution, and may participate in investigative activities. Two general bodies are included in the prosecutor's office system, namely the State Prosecutor's Office and 4 district prosecutor's offices.<sup>38</sup>

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<sup>35</sup> Leheza, Yevhen. Pisotska, Karina. Dubenko, Oleksandr. Dakhno, Oleksandr. Sotskyi, Artur. 2022. the essence of the principles of ukrainian law in modern jurisprudence. *Revista jurídica portugalense*, december, 342-363. doi: [https://doi.org/10.34625/issn.2183-2705\(32\)2022.ic-15](https://doi.org/10.34625/issn.2183-2705(32)2022.ic-15)

<sup>36</sup> Leheza, Yevhen, Yankovyi, Mykola. Medvedenko, Nadiia. Vaida, Taras. Koval, Marat. (2024). Application of Artificial Intelligence in Motivating Court Decisions: Legal Basis and Foreign Experience. *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan*, 24(1), 58–69. <https://doi.org/10.30631/alrisalah.v24i1.1531>

<sup>37</sup> Eesti Vabariigi põhiseadus. Vastu võetud 28.06.1992. RT 1992, 26, 349. Jõustumine 03.07.1992. *Riigi Teataja*. <https://www.riigiteataja.ee/akt/115052015002>

<sup>38</sup> Dymko, Iegor, Arsen Muradian, Yevgeny Leheza, Andrii Manzhula, and Oleksandr Rudkovskiy. 'Integrated Approach to the Development of the Effectiveness Function of Quality Control of Metal Products'. *Eastern-European Journal of Enterprise Technologies* 6, no. 3 (90) (2017): 26–34. <https://doi.org/10.15587/1729-4061.2017.119500>.

According to the law the tasks of the prosecutor's office include: ensuring legality and effectiveness of pre-trial criminal proceedings; supervising legality of operational investigative activities of investigative bodies, which are bodies of pre-trial investigation, during the detection of crimes or pre-trial proceedings of criminal cases; representation of the state prosecution in court; performance of tasks arising from international cooperation, participation in the work of Eurojust; other tasks assigned by law to the prosecutor's office.

The Prosecutor's Office of Estonia, like the Prosecutor's Office of France, manages the pre-trial investigation, but does not replace it. Thus, the prosecutor's office mostly supports the criminal prosecution in court, participates in the planning of investigative actions, conducts proceedings in cooperation with the police, state border guards, fiscal and other services.<sup>39</sup>

In practically the same way activities of the prosecutor's office are regulated in the Republic of Latvia, at the same time, it is interesting that the prosecutor's office here is completely excluded from the Constitution of the Republic of Latvia, because we do not find any regulation regarding the prosecutor's office. The main principles of activities performed by the prosecutor's office are enshrined in the Law "On Prosecutorial Supervision in the Republic of Latvia", namely: the prosecutor's office is a single centralized system of three-level structural units headed by the Prosecutor General; prosecutors of the same position are interchangeable.<sup>40</sup>

Unlike the previously considered European countries, in Latvia the prosecutor's office is directly defined as a body of judicial power that independently oversees legality. The task of the prosecutor's office is to respond to violations of the law and ensure the resolution of related cases in accordance with the procedure established by law.<sup>41</sup>

The entire prosecutor's office system in Latvia is managed by the Prosecutor General. The the Prosecutor General appoints and dismisses prosecutors, as well as employees with whom establishment of labor relations is within the competence of the Prosecutor General. District judicial prosecutor's offices are formed by the Prosecutor General in accordance with the distribution of territories of judicial activity. According to the Law "On the Judiciary", district prosecutors' offices perform the functions of prosecutors in the territories of judicial districts.<sup>42</sup>

According to the Latvian legislator the main functions of the prosecutor's office include : implementation of control over pre-trial investigation and operational investigative activities, intelligence and counter-intelligence activities of state security agencies and compliance with the legislation on the system of protection of state secrets; carrying out a pre-trial investigation; initiation and implementation of criminal prosecution; support of the state prosecution; supervision over execution of sentences; protection of the rights and legitimate interests of the individual and the state in accordance with the procedure established by law; submission of a statements of claim or filing a court compliant in accordance with the procedure established by law; participation

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<sup>39</sup> Leheza, Yevhen. Dubenko, Oleksandr. Pavlyk, Liudmyla. Prasov, Oleksandr. Pavlov, Volodymyr. (2024). Foreign Experience of Responsibility for Driving Vehicles in Condition of Alcohol Intoxication: International Standards, Administrative and Criminal Aspects. *Revista Juridica Portucalense*, 161–174. [https://doi.org/10.34625/issn.2183-2705\(35\)2024.ic-08](https://doi.org/10.34625/issn.2183-2705(35)2024.ic-08)

<sup>40</sup> Prokuratūras likums. Tas stājas spēkā 01.07.1994. Izdevumā no 06.10.2021. *Likumi*. <https://likumi.lv/ta/id/57276-prokuraturas-likums>.

<sup>41</sup> Kornienko, Maksym, Anatoliy Desyatnik, Galina Didkivska, Yevhen Leheza, and Oleksiy Titarenko. Peculiarities of Investigating Criminal Offenses Related to Illegal Turnover of Narcotic Drugs, Psychotropic Substances, Their Analogues or Precursors: Criminal Law Aspect?. *Khazanah Hukum* 5, no. 3 (2023): 205–15. <https://doi.org/10.15575/kh.v5i3.31742>.

<sup>42</sup> Par tiesu varu datēts ar 15.12.1992. Stājies spēkā: 01.01.1993. *Likumi*. <https://likumi.lv/ta/id/62847-par-tiesu-varu>

in court proceedings in cases specified by law.<sup>43</sup>

In Article 6 of the Law on the Prosecutor's Office it is clearly defined that the prosecutor in his/her activities is independent from the influence of other institutions or officials who exercise state power and management and he/she obeys only the law. Neither the Saeima, nor the Cabinet of Ministers, nor other state and local government institutions, state and local government officials, nor any types of companies and organizations, nor individuals have the right to interfere with the work of the prosecutor's office during investigation of cases or during performance of other functions inherent to the prosecutor's office. At the same time, any actions of the prosecutor can be appealed exclusively in accordance with the procedure established by law.<sup>44</sup>

In addition, a prosecutor has immunity, and initiation of a case against him/her and his/her detention, arrest, forced return or search may take place in the manner provided by law and with immediate notification of the Prosecutor General. Prosecutors bear no material responsibility for damages caused to a person by illegal or unjustified actions or decisions, such damages can be compensated only in exceptional cases, and exclusively by the state.

Thus, in Latvia, the prosecutor's office is the only centralized system headed by the Prosecutor General, and prosecutors are independent in their activities and they obey exclusively the law. It can be said that in Latvia, as in other countries of the European Community, prosecutors are endowed with quite significant powers, and their responsibility is limited at the legislative level, which allows them to perform their duties, relying exclusively on the provisions of the current legislation, regardless of subordination, and therefore prosecutors have considerable independence.

## CONCLUSIONS

The research found that through a comparative analysis of the legal regulation of prosecutor's offices in the United States and several European countries with the aim of finding best practices that can be adopted to improve the prosecutorial system in Ukraine. The results show that there is no internationally uniform prosecutorial model, as each reflects a unique historical, cultural and legal context.

Ukrainian prosecutors face severe challenges such as high caseloads, lack of human resources, and funding deficits. However, the experience of European countries, particularly in ensuring prosecutorial independence, offers important lessons. The study also highlights the importance of maintaining a balance between public and private interests, ensuring the rule of law, and protecting human rights, especially in war crimes investigations.

The study emphasizes that while there are no universal standards, Ukraine should adopt best practices from different systems to improve the effectiveness and efficiency of its prosecutorial framework, while taking into account its unique characteristics and challenges. This approach is expected to not only improve the performance of prosecutorial institutions but also strengthen public confidence in law enforcement in Ukraine.

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<sup>43</sup> Leheza, Yevhen. Shcherbyna, Bogdan. Leheza, Yulia. Pushkina, Olena. Marchenko, Olesia. (2024). Características de la suspensión o denegación total/parcial del cumplimiento de una obligación en caso de incumplimiento de la contraparte según la legislación civil de Ucrania. *Novum Jus*, 18(2), 131–150. <https://doi.org/10.14718/NovumJus.2024.18.2.5>

<sup>44</sup> Volobuieva, Olena, Yevhen Leheza, Vita Pervii, Yevhenii Plokhuta, and Roman Pichko. 'Criminal and Administrative Legal Characteristics of Offenses in the Field of Countering Drug Trafficking: Insights from Ukraine'. *Yustisia Jurnal Hukum* 12, no. 3 (2023): 262–77. <https://doi.org/10.20961/yustisia.v12i3.79443>

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