

## INSTRUMENTAL CONTROL AS A TYPE OF DEMOCRATIC CONTROL: ESSENTIAL FEATURES AND DIMENSIONS

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In the context of modern democratic and technological development, various issues related to the proper provision and protection of human rights, freedoms and legitimate interests gain particular significance. At the same time, it should be emphasized that the legal development of European states in today's conditions provides for the functioning of several legislative mechanisms aimed at ensuring the effective implementation of citizens' rights and freedoms, and in case of their violation – at their full restoration [1]. Therefore, the category of "control" is of particular importance in the system of human rights law.

The general theoretical understanding of the category of "control", including its correlation with "supervision" criteria for differences and its recognition as an independent branch of power, the grounds for the recognition and existence of the control branch of power, etc., are still issues that cover the necessary format of theoretical understanding and elaboration. Undoubtedly, certain aspects of the actualization of this range of issues are related to the constant introduction into legal reality of technological elements that determine it and at the same time exist as intra-system components.

The practical cross-section of the plane of control in democratic states governed by the rule of law encompasses the functional capacity to ensure human rights, freedoms and legitimate interests, and therefore the legitimacy of the authorities that effectively protect these rights (social state). This is a state that can answer civil society and the individual for the consequences of its activities.

Broadly defined, control is a democratic institution, as democracy relies on mechanisms of public oversight. In our opinion, control in view of the historical and legal paradigm is a form of management of society, which consists of a) establishing certain behavioral rules; b) their appropriate consolidation, ensuring publicity and awareness; c) enforcing compliance in relation to social demands in the context of legitimation of public authorities. Control in a democratic society can be considered as a purposeful and effective influence of social actors on the behavior of participants in social interaction to ensure the optimal functioning of the social system. Such control is carried out relations between equal subjects within the framework, institutionally fixed

at all levels of the functioning of society — from legislative norms to the level of individual self-consciousness of each member of society [3].

Proper protection of rights and freedoms means the effectiveness of governance, since the authorities in a democratic society are interested in effective control, given that this is its legitimation. Each separate system of control constitutes a value orientation vector of the democratic development of modern states, particularly Ukraine, regarding the transformation of the declarative provision: "a person is the highest social value" into a real, legally protected constitutional and legal principle.

Separately, we outline that the task of civil society, of course, is to protect a person from excessive state control. Thus, the positions of detailing and consolidation of regulatory bodies and strengthening of public order, including legal, do not always coincide, since the amount of "control" does not mean the quality of life itself [4].

Thus, the next aspect we examine is the ratio of the categories of "control" and "freedom". The practical cross-section of the plane of control in democratic legal systems covers the functional capacity to ensure the rights, freedoms, and freedom of the individual, which means the actual legitimacy of power.

The rights and freedoms established by the democratic state power are exercised in the interests of all citizens and each person individually.

Democratic state constantly support individuals in self-development. She is an effective and active supporter of freedom, physical, spiritual and cultural development of a person. Moreover, the wider the political positions, the more successfully the state performs its social function. The specificity of such relations lies in the fact that a significant part of them is regulated by law.

Considering the relationship between the state, the rights and freedoms of the individual, it should be noted that there are rights and freedoms that should not be limited in any case – these are natural human rights and freedoms. The main content of many legal guarantees of individual freedom is to provide the necessary conditions for normal life, active activity of citizens in society, by guaranteeing the human right to peace<sup>1</sup>.

In addition, it is certainly clear that social justice relations reflect the level of freedom in it. The specificity of such relations is that they are mostly formalized by law. One of the key aspects of the value-based approach to law is that it can ideally reflect the dimension of both formal and substantive freedom, and the law that operates in certain spatial and temporal dimensions for the purpose of legal regulation and ensuring freedom.

In this way, we would like to point out that, for example, careful or "not very thorough", but still control over private and family life is not desirable for any individual (protection against such actions is guaranteed by Article 9 of the Charter of the European Union of 2000) [5].

Within the democratic and legal state, the relations "person - state" undergo significant changes, which are determined by a set of complex subjective and objective factors, in particular technological progress, and are inherent in a specific stage of the historical development of society. These relations are not intended to provide one part of society with a greater degree of freedom than another; In this case, it is necessary to talk about state power, which provides conditions of freedom for all members of society, all citizens of the state. It should be noted that since ancient times the State has always been seen as an "instrument" that provides a certain level of freedom in certain spatial and temporal dimensions. The freedom of the people is ensured only when they completely organize, without any interference in unions, assemblies, issues law, elects at their own will all officials of the state, who are entrusted with the implementation of laws and administration

based on these laws [6]. Therefore, the freedom of the people is ensured only when power in the state fully and finally belongs to the people [7]. As you know, the sovereignty of the people is formed within the democratic state governed by the rule of law. In such a state, the people have all the fullness and supremacy of power. The authorities that are created, subordinate to the people, are elected and controlled by the people. Only under such conditions is the freedom of the person ensured. In a democratic, law-governed state, the relationship between the authorities and citizens regarding the freedom of the individual is built as parity and fair. The people are equally interested in the freedom of the individual and in the normal functioning of state bodies that ensure the rights and freedoms of people.

From a political point of view, relations of social justice, where only individual freedom is possible, can be relations where freedom is tightly connected with the essence of power and real democracy with individual autonomy.

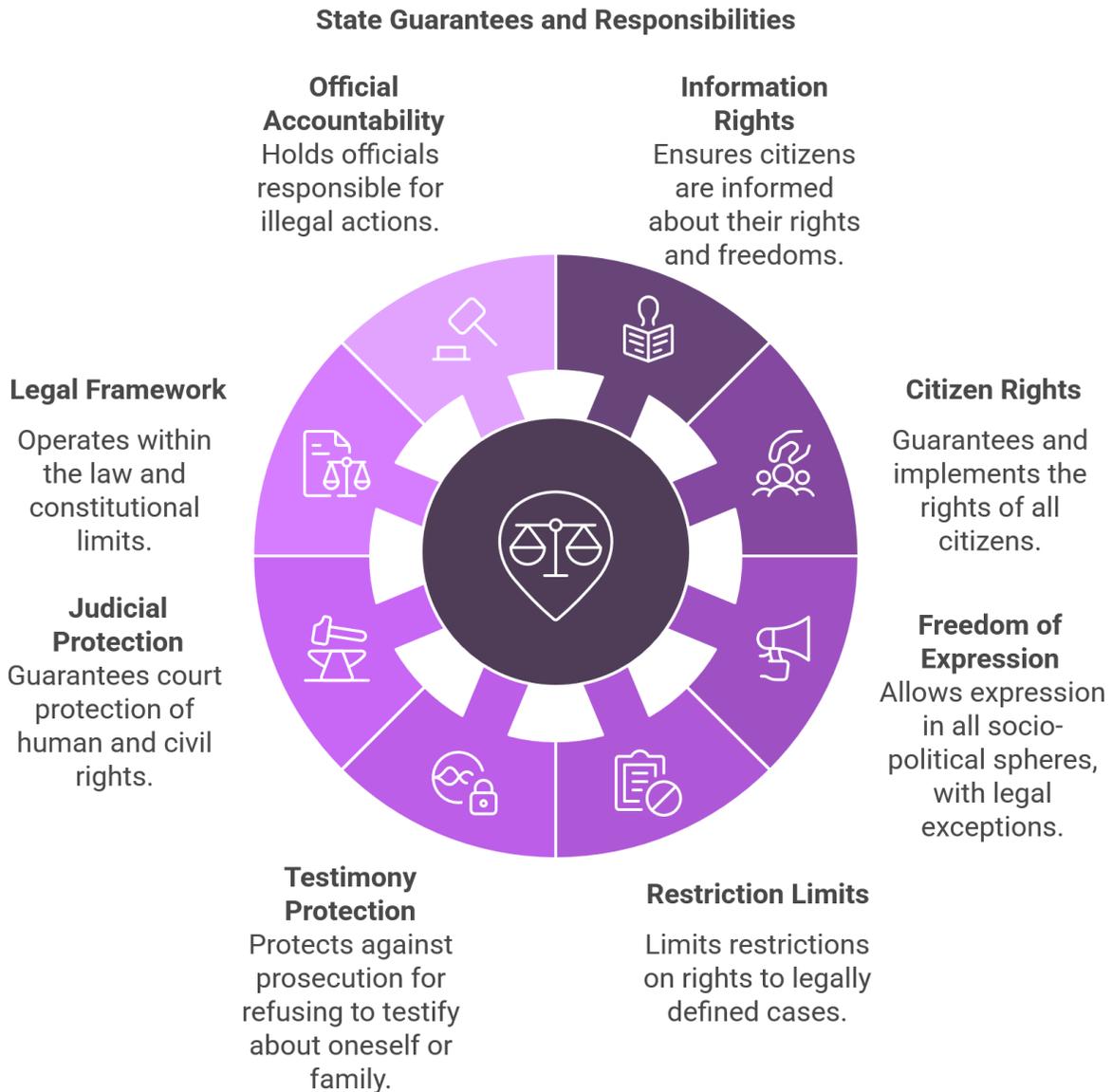
The rights and freedoms established by the democratic state power are exercised in the interests of all citizens and each person individually. In the rights and freedoms established by public authorities, which then are implemented by citizenry, there is in fact unity of the general and the particular, the result of which is the strengthening of state power, the satisfaction of people's interests [8].

It should be noted that nowadays, the state's responsibility towards individuals is gradually becoming more tangible: legislation is being actively updated, including norms providing for the legal responsibility of both the whole state and its officials. The establishment of state responsibility norms to the citizenry is evidence of state recognition of citizen rights and freedoms priority over other social values. At the same time, the process of forming this institution has slowed down significantly due to the new stage of the russian-Ukrainian war since 2022 and the need to take a wide range of derogation in Ukraine in human rights field<sup>1</sup>.

One of the key traits of a social, legal state — its subordination to law — shouldn't be understood as granting citizen rights by the state, having their own justification instead. They objectively exist from the birth of a person and are inalienable from individual. Therefore, the relationship between the individual and the state should be built based on reciprocal rights, duties and responsibilities. As a citizen is responsible to the state, so the state is responsible to a citizen [9] (Fig.1).

State:

1. Guarantees everyone's information about their rights and freedoms.
2. Undertakes to ensure the rights of its citizens and ensure their real implementation.
3. Grants freedom to express oneself in all spheres of socio-political life, except for areas expressly provided for by law.
4. It has no right to restrict rights and freedoms, except for cases expressly provided for by law [10].
5. It has no right to prosecute for refusal to give testimony or explanations about himself, family members or close relatives, the circle of which is determined by law.
6. Guarantees the protection of human and civil rights and freedoms by the court.
7. Acts exclusively within the framework of the law and have clearly defined powers established by the constitution.
8. Responsible for illegal actions of officials: abuse of power, abuse of office.



*Fig. 1. State Guarantees and Responsibilities*

The legal institution of state responsibility allows you to create additional checks and balances to the authorities, mitigate its autocratic manifestations, and limit possible abuses, obeying its law. The conditions created by this institution turn dominion into a public service, not a privilege. Compliance with the institution of the state's responsibility, its bodies and officials to an individual and a citizen is one of the main indicators of state's activities legal orientation, and only in this case we discuss the support of state power provided by legal progressive development. It expresses the moral and legal principles in the relationship between the state as the power-bearer and the citizen as a main implementation participant.

9. It must compensate at its own expense or at the expense of local self-government bodies' material and moral damage caused by illegal decisions, actions or inaction of state authorities, local self-government bodies, their officials and officials in the exercise of their powers.

According to Art. 55 of the Constitution of Ukraine, the court is empowered to review decisions, actions or inaction of state authorities, local self-government bodies, officials including cases when they have been challenged in court. Thus, a legal mechanism has been established to hold the state accountable to individuals for its actions.

10. Guarantees the right of individuals to seek protection of their rights and freedoms to the relevant international judicial institutions or to the relevant bodies of international organizations of which Ukraine is a member or participant, etc. [11]

Nowadays, Article 2 of the International Covenant on Civil and Political Rights, according to which the state, is fulfillment of its obligations to protect human and civil rights:

- a) ensures the rights of all people under their jurisdiction without any discrimination.
- b) in accordance with the constitutional procedure of a legislative or other nature, takes measures to allow the exercise of these rights.
- c) provide everyone whose rights have been violated with procedural legal means for their protection.
- d) develops the possibilities of using these legal means and is also responsible for the effectiveness of their application. A citizen of the state, in turn, not only exercises rights, but also has obligations to the state and his fellow citizens, is responsible if they are not fulfilled [12]:

- enjoys the rights granted to it within certain limits established by law.
- Every right corresponds to a duty, as exercising freedom requires others to refrain from interfering. To protect the interests of other citizens and society, some of its actions are limited by law.
- the citizen's responsibility is independent to their position and social status.

As the Ukrainian jurist B. Kistyakivskyi wrote, "in a state governed by the rule of law, power should be structured so that it does not oppress the individual; In such a system, both the individual and the collective must be not only objects of power but also its subjects." Aristotle also interestingly expresses a similar opinion: "So, it is clear from experience that every state is a certain association, and any association is formed for a certain happiness. After all, everyone acts for the sake of what is considered a decent life, so obviously all associations aim towards to a certain happiness in their activities " [13].

It is possible to predict the prospect of Ukraine successful development only on the path of an optimal combination of the principles of legal statehood, democracy, and social statehood. The idea of a social legal state is a universal value shared by humanity. This rational idea, if successfully implemented, will be able to join Ukraine to the number of civilized states of the world.

The idea of a social legal state found a clear textual expression in Article 1 of the Constitution of Ukraine.

It would be a mistake to believe that the rules of law and the welfare state are perfectly combined and are able to completely merge into one type of state. The principle of social security of the population and the requirement of not only legal, but also material equality (properties of the social state) may conflict with the principles of individual freedom and the mutual responsibility between state and citizen (properties of the rule of law) [14].

However, it would be wrong to oppose the rule of law and the social state because their rapprochement is the most favorable result for civil society, the best option for its development without class-hostile conflicts and social upheavals.

Social and rule-of-law states are interconnected and viable if the functioning of state power is limited, balanced, controlled and extended within the framework of observance of fundamental human rights. And vice versa, the welfare state will contradict the rule of law whenever "human

well-being", "social security", "social justice" are considered the highest values. The development of the state as a social state should be based on such a foundation as a "legal" state.

Ukrainian society must overcome a lot of obstacles to implement the idea of a social rule-of-law state.

A social state governed by the rule of law is a political organization of society in which law binds and subordinates state power, and the fundamental rights of an individual and his/her social security constitute the content of freedom based on laws that are adopted and amended. [6].

In addition to the usual features characteristic of any state, a social, legal state, as the highest form of political organization developed by humanity, has several specific features (Fig.2):

1. Connection of state power with law and its supremacy in all spheres of public life: freedom can be achieved only if state power is limited by law, controlled by law, functions in combination with and in interaction with civil society within the framework of law; in the Constitution of Ukraine (Article 8) it is written: "The principle of the rule of law is recognized and operates in Ukraine."

2. The correspondence of the law to the legal norms and its supremacy, i.e. law as a measure of freedom and justice, acquires the content worked out in the law; constitutional law has direct effect.

3. Being bound by the law equally of both citizens and their associations (commercial and non-commercial), as well as state bodies and officials. Regarding citizens and their associations, there is a general permissive principle: "Everything is allowed, except for what is expressly prohibited by law."

4. Legislative consolidation and real provision of fundamental human rights — the presence of a well-established legal mechanism for their protection (considering the level of direct constitutional protection) [15].

5. Building a relationship between the individual and the state based on mutual responsibility: just as a person is responsible to the state, so the state is responsible to a person for non-fulfillment of duties.

6. Separation of state power between legislative, executive and judicial bodies: their independence and unity; inadmissibility of functions duplication; the effectiveness of the "checks and balances" mechanism.

7. The legal (legal) way of adopting laws and their changes is the way of expressing the will of the people directly (referendum) or indirectly (through a representative body). All the fullness of legislative power in a representative body is exercised by representatives of the people elected from its cell.

8. Effective forms of control and supervision over the implementation of laws and other normative acts ensure the work of the prosecutor's office, police, security service, tax administration and other law enforcement, control and supervisory institutions.

9. The ability of a person to achieve a specific minimum of social benefits due to the state-guaranteed social security — a minimum (sufficient) standard of living for each citizen and its gradual increase [16].

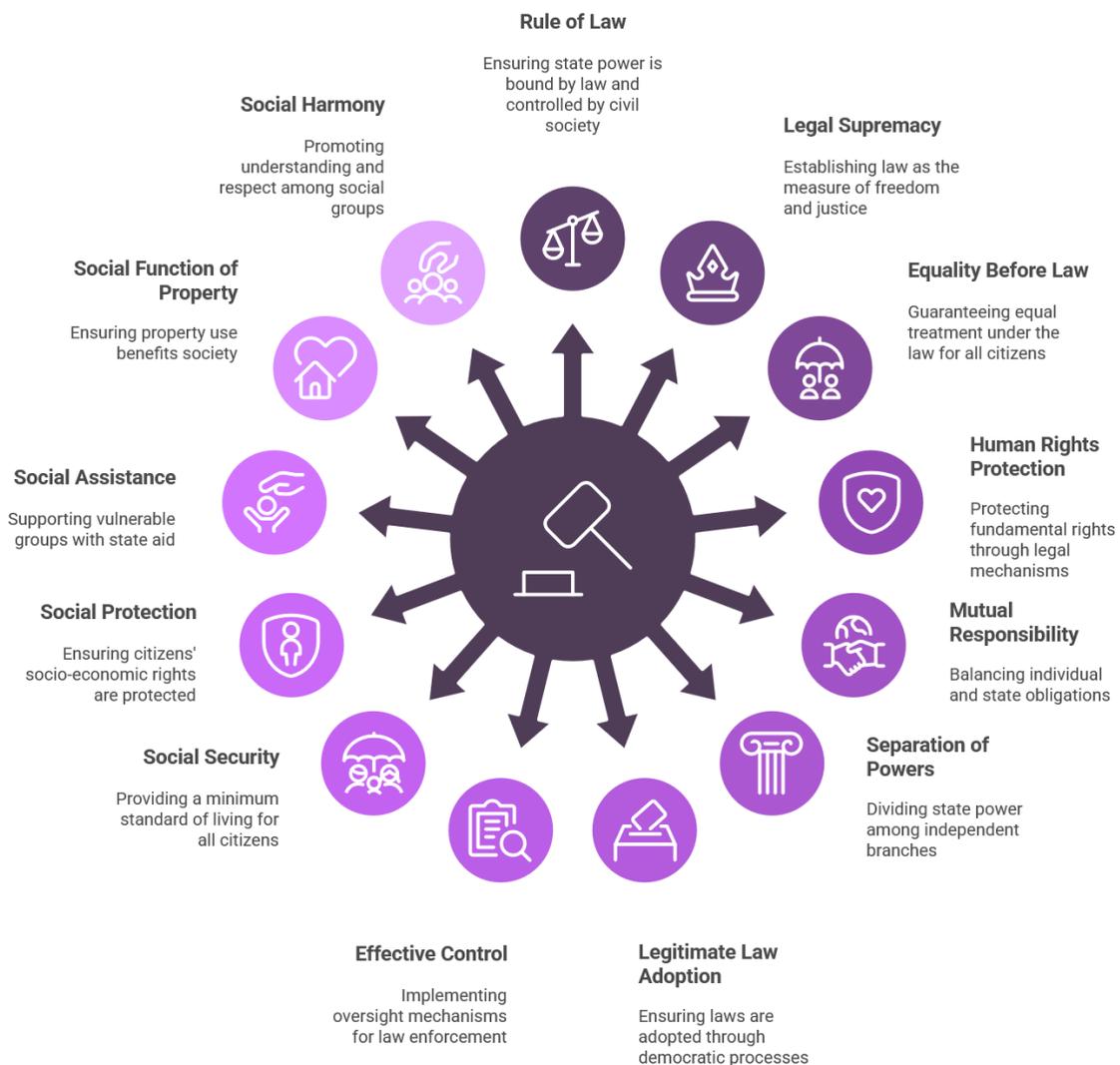
10. The ability of citizens to demand the provision of their social protection by the state by elevating socio-economic rights to the level of fundamental rights — the formation of a social environment that creates conditions for favorable individual development of a person. Not equality of outcome, but equality of opportunities with the help of the state system of enlightenment and education, tax policy, regulation of the labor market and control over working conditions, etc [17].

11. The implementation by the state of social assistance to citizens who are unable (through no fault of their own) to be responsible for their well-being is about ensuring a guaranteed standard of living for socially vulnerable groups — the elderly, the disabled (sick), the unemployed for reasons beyond their control. This right is guaranteed by compulsory state social insurance.

12. Provision by the state of the social function of property — property should not be used to harm a person and society: harm the rights, freedoms and dignity of citizens, the interests of society, worsen the ecological situation and natural qualities of the land (Articles 13, 41 of the Constitution of Ukraine).

13. State should implement a policy of social harmony, ensuring the solution of all issues through the consent and understanding of various social groups, deep respect for a person regardless of his social status, protection from any encroachment on his life, health and personal dignity.

### Principles of a Democratic State



*Fig. 2. Principles of a Democratic State*

In this way, the social state, limited by law actively regulating socio-economic processes, the social aspect of the fundamental rights of citizens, and their social protection in accordance with the law.

The state is social, legal, insofar as it guarantees freedom of identity:

— as an individual who differs from others in physical and mental qualities, that is, has individuality.

— as a member of a social organism as part of civil society, i.e. an individual who is a member of public and professional groups and organizations.

— as a citizen of a certain state [18].

Relations between the individual and the state are based on the establishment of such a balance in which:

— a person would have the opportunity to freely develop abilities, satisfy rights, freedoms and legitimate interests.

— the state would receive recognition and support for its activities from a person who fulfills their duties and is responsible for their non-fulfillment.

The whole set of theories and views that existed in the history of political and legal thought and relate to the relationship "state — person" can be reduced to two approaches:

1) individualistic, personal, humanistic (natural law approach). This approach follows from the understanding of the individual as an end, the state to achieve the goal. Its content is that rights belong to a person by nature. It has them regardless of the state. These rights are inalienable. The task of the state and society is to observe these rights, prevent their violation, and create conditions for their implementation. The specific content and scope of rights change and expand with the development of society, while the fundamental rights themselves remain unchanged.

2) state, static (juridical positivist). This approach follows from the understanding of the state as an end, and the individual to achieve the goal. Its content is that a person receives his rights from society and the state, the nature of these rights is paternalistic. The state is both the source and guarantor of rights due to their enshrinement in law. No conceptual distinction is made between law as a normative system and legislation as its formal expression. The rights of a person vary depending on the state expediency and possibility.

The main meaning of many legal guarantees for individual freedom is to provide the necessary conditions for normal and active life within society. In these values, current legislation must be systematically revised and updated to reflect contemporary demands. Legal mechanisms for protecting the citizens' rights should be refined both during the drafting and adoption of laws, and throughout their implementation. Finally, responsibility for violations of constitutional rights and freedoms must be strengthened by other citizens along with state officials, what is especially important.

It's essential to acknowledge such an important circumstance as the intention of the state authorities to restrict the freedom of a person, to limit individuals with a rigid legal border. According to the famous American sociologist and publicist S. Niring, among the restrictions on human freedom, there is no crueller and more universal phenomenon than the power of the modern state.

Legal restrictions are certain exceptions to the legal status of a citizen that infringe on the freedom and interests of a person; This is the legal restraint of illegal, harmful, undesirable acts. Restrictions establish the framework within which subjects must act, excluding thereby some forms of action [19]. A special category in this context should be considered those legal restrictions that are introduced within the framework of extraordinary legal regimes, the practical

implementation of which we see today during martial law on the territory of Ukraine in connection with the full-scale invasion<sup>1</sup>.

It is known that legal responsibility is, first, a legal tool with the help of which effective management of society is achieved. At the same time, in modern conditions, not only legal tools, but also the law itself has changed qualitatively. "The main thing is that it (i.e. law), as an instrument of power ("rights of power"), began to find a special, independent place in the social organism, moreover, with such functions and such power that can order and "tame" power itself, which determines the very possibility of the concept of "rule of law". At the same time, it is obvious that in Ukraine the problem of responsibility of the authorities in recent years has been especially relevant in the context of the development of civil society and the rule of law [20].

Consolidation in Article 1 of the Constitution of Ukraine, the provision that Ukraine is the rule-of-law state sets the task of substantiating and further developing this complex concept. In legal theory, the protection of the interests and rights is recognized as a core function of the rule-of-law principle. According to scientists, the essence of the rule of law is characterized by several points: 1) recognition of an individual, their rights and freedoms and their protection as the highest value and duty of the state; 2) restricting the scope of state power through law. Thus, a rule-of-law state is "one in which its formation, powers, functioning is regulated by law; the highest purpose of which is to recognize, observe and protect citizens' rights and freedoms". This constitutional provision formally affirms the principle of mutual responsibility of state and citizen, particularly, the state responsibility to person and citizen. In a state that proclaims legal, legal responsibility should be applied not only to private individuals, but, first, to public subjects of law. According to scientists, "the essence of public power is to serve an individual, ensuring rights and freedoms" [21].

We separately emphasize the inadmissibility of operating with law as a political tool. Such a trend gives rise to populist theories and degradation of legal processes, where basic functions in human rights protection are stagnating. So, we certainly agree with Lord Germer that "we must reaffirm that the rule of law, both nationally and internationally, is a necessary prerequisite for the establishment of democratic values. It provides the basis for political and economic prosperity [22]. It is the confrontation between the principle of the rule of law and democratic values that today indicates that political expediency can be considered more important than legal universality.

I would like to proceed to the specification of these provisions and dwell on the legal foundations/principles that summarize them, confirm them – on the general theoretical understanding of the category of "control", which is extremely important not only in terms of the protection of human rights, but to fulfill the global task of preserving human civilization.

In terms of scope (instrumental dimension), the phenomenon of "control" can be considered as: state control, public control, mechanisms of international control, as well as technological control using "new generation control tools", with the help of AI.

Regarding the first component, control in a broad sense is a democratic institution, since democracy in a broad sense is control over the exercise of public power in society. The practical cross-section of all three types of control in democratic types of systems covers the functional capacity to ensure rights, freedoms and legitimate interests, and therefore: the legitimacy of the authorities, which effectively protects honor, dignity and human rights. Proper protection of rights and freedoms means the effectiveness of governance, since the authorities in a democratic society are interested in effective control, given that this is its legitimation.

Another type of control is publicity. Firstly, it mediates the distribution of public space between the state and civil society, highlights the problems that arise between two, and most

importantly – control over the responsibility of the rule-of-law state to civil society. It is "control over control". Thus, it is possible to trace the corresponding unity between state and public control over the implementation of social tasks, the effectiveness of social policy, and, therefore, the effective rights and legitimate citizens' interests' protection.

In today's realities, the entire burden of "support mechanisms" cannot be placed solely on the state. The institutions and structures of civil society should be of great importance here.

Much attention is now focused on the processes taking place in the social world development. It should be noted that it is the processes "initiated" by national societies that largely determine the processes of interaction between states in terms of assistance in various spheres of human life after the Russian full-scale invasion into Ukraine.

Therefore, it is obvious that the contemporary role and importance of globalized, internationalized, consolidated civil society is growing exponentially.

However, it should be noted that we are talking about civil society, which is formed and developing in the context of civilizational progress. We would like to draw attention (indirectly, thesis) to the theoretical coverage of role, properties and characteristics of modern civil society. It should be noted right away that we do not aim to analyze the definitional (conceptual) series associated with the terminology-concept of civil society. We will talk about individual properties and characteristics, presenting a few "primers", which are important to present the provisions:

- a) civil society is emancipated, freed from the state;
- b) the institutions of civil society are interconnected, mutually corresponding to the development of a democratic, social, legal state;
- c) civil society is "responsible" for representing the interests of a person before the state; protects against excessive interference of the state in private/private life;
- d) it is civil society and the state that are responsible for individual socializing, enabling independent thinking, decision-making process and, what is very important, responsibility for the different types of consequences, including political ones.
- e) civil society does not aim to replace the state. It does not appear from scratch but is preceded by both social and state development. Therefore, these are two realities of social reality that exist and develop together.

After reviewing the characteristic features and properties of civil society, we can confidently state that today its role, in the context of world international, institutional and legislative crisis is growing significantly [23].

As for the third type of control (international control), first, it is necessary to dwell on the system of international control guarantees, their supranational level, carried out by supranational institutions. International control plays a special role in the field of human rights (international human rights protection system, European human rights mechanisms). In a general sense, international control is a key contemporary international relations element. It involves verification by international organizations — or their authorized bodies — of state compliance with treaty-based and other international legal obligations. Such control is carried out within the competence of the relevant subjects of international law by establishing facts that can be used as a legal basis for making binding or recommendatory decisions that entail relevant legal and political consequences for the state that is the object of control [3].

According to Article 67 of the Treaty on the Functioning of the European Union, the Union is an area of freedom, security and justice, where fundamental rights and various legal systems are respected. The European Council shall lay down strategic guidelines for legislative and operational planning and control within the area of freedom, security and justice (Article 68).

The control procedures of this treaty are specified in the Charter of Fundamental Rights of the European Union of 2000. One noteworthy provision today is "the right to the integrity of the person – a new personal right, the need for which is caused by scientific and technological progress, especially in the field of medicine and biological science, biotechnology, etc. 2 of the Charter of Fundamental Rights of the European Union of 2000).

However, under current conditions, there is an urgent need to improve the existing international legal system for the protection of human rights, especially in the sector of intersection with international humanitarian law. The reality of Lord Germer's thesis is becoming more noticeable in the practical plane: "Faith in international law and the international legal order is gradually being destroyed among societies that hear again and again system failing its functions [22]. Indeed, the modern world gives rise to new challenges and encourages the transformation of all international law. That thereby creates a new direction for research and is actively articulated in public space.

In turn, control using the latest technological means should be characterized as a doctrinal novelty that requires practical legislative influence. There is a critical need for the development of a coherent methodological framework to guide its responsible use in human rights protection and it can be considered as a means of ensuring and proper functioning of the other above-mentioned types of control. We focus on the insufficiency of theoretical and legal understanding of the methodological basis for the use of AI as a type of control, which, of course, requires deeper support from the domestic and world scientific community [24].

Instrumental control is a type of democratic control implemented using specific tools, primarily technological ones. Its essence lies in the use of special means of monitoring and verification to ensure the openness of the authorities and compliance with legal norms. The key features of instrumental control include objectivity (reliance on data and facts), efficiency (automated collection and analysis of information) and scalability (the ability to cover large amounts of data or processes). In democratic governance, instrumental oversight complements traditional oversight mechanisms, allowing for better monitoring of government activities, assessing the effectiveness of policies, and timely detection of violations.

The modern development of information and communication technologies has significantly expanded the arsenal of instrumental control tools (Fig.3). Let us consider the main tools used to ensure democratic control, as well as their positive impact and application features.

1. E-government is the introduction of digital technologies in the activities of government agencies and the provision of public services online, as a tool for ensuring transparency and accountability of public administration. Electronic platforms allow citizens to quickly receive information about government decisions, budgets, public procurement, etc. Electronic appeals and petitions simplify the participation of citizens in decision-making, which also has a positive effect on the protection of human rights, as it provides equal access to services and information, as well as recording the actions of the authorities in a digital format, which simplifies the protection of rights in case of their violation [25].

2. Artificial intelligence (AI) and big data analysis are being used increasingly for automated supervision and decision support in the public sector. AI systems are capable of processing data sets that are not available for manual analysis, detecting hidden patterns and anomalies. This opens new opportunities for anti-corruption control and supervision over the use of budget funds [26]. AI is used to evaluate the effectiveness of policies (e.g., analyzing big data on program execution) and to improve service delivery (e.g., chatbots or decision support systems for officials). At the same time, AI is associated with risks to human rights, so international experts in law and technology are calling for the development of a framework for good governance by artificial intelligence, based on existing human rights standards [27]. When used responsibly, AI can

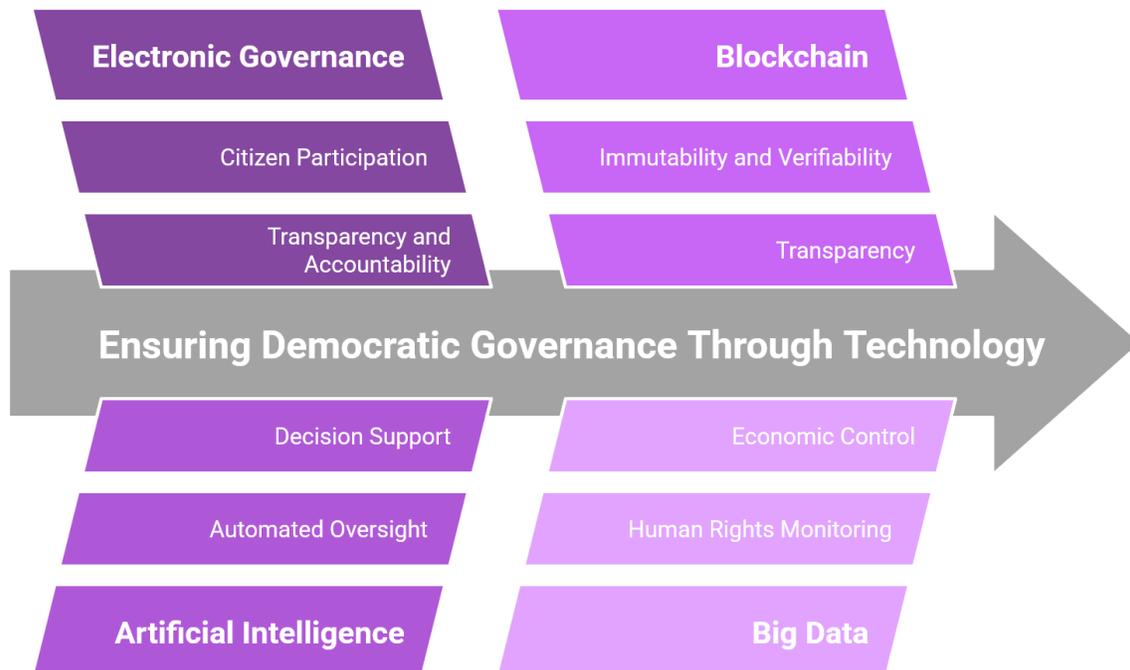
become a "public good" and serve democracy by strengthening public control, but without proper control, it can undermine it [28].

3. Blockchain is a distributed ledger technology (DLT) that ensures the immutability and verifiability of transaction records. In democratic governance, blockchain maintains open registers, conduct e-voting, monitor the movement of funds and property, and protects documents from forgery. The main advantage is transparency and the impossibility of unauthorized data changes: each transaction is recorded in a shared ledger and confirmed by many network participants. Thus, blockchain increases government accountability and transparency of democratic processes [29].

4. Automated surveillance involves various technical solutions for real-time monitoring of public spaces and behavior, which are *a tool for monitoring compliance* with the rule of law and public order. In a democratic state, their use can both strengthen security and increase the accountability of law enforcement officers themselves. For example, **video recording of officials' actions** allows documenting misconduct and bringing perpetrators to justice faster [30].

5. Big Data processing is an instrumental control mechanism closely related to AI and automated supervision. Big data can be used to monitor human rights compliance: analysis of court decisions reveals bias, and aggregation of incident reports online helps track cases of rights violations. In the economic sphere, Big Data is used to control public finances. Thus, data analytics strengthens democratic control, making it more evidence-based – decisions on intervention or reform can be made because of objective indicators, not political conjuncture.

### Enhancing Democratic Governance Through Technology



*Fig. 3. Ensuring Democratic Governance Through Technology*

### Positive effects of instrumental control

The application of the above technologies in public administration has generated a series of positive changes that have strengthened democratic governance:

1. Transparency and accountability of the authorities.
2. Improving the efficiency of public administration.
3. Increasing citizen participation and protecting human rights.
4. Prevention of abuse and corruption [31].

Risks and challenges of technological control.

Despite its significant advantages, instrumental (technological) control also poses a number of challenges to democracy and human rights. This is manifested in "*digital absolutism*" – when the authorities are aware of every step of citizens and can punish selectively, without resorting to mass repression [32] Let's consider the main risks:

1. Abuse of power and "digital authoritarianism". The same technologies that can strengthen democracy can be used by the authorities to suppress freedoms. Artificial intelligence can be used to automatically censor Internet content or spread propaganda with microtargeting (influencing the electorate through big data). Blockchain, if all transactions are open, can be used to track the economic activity of opponents of the regime. The proliferation of AI surveillance systems has already given governments prone to powerful tools strengthening undemocratic control.

2. Invasion of privacy and mass surveillance. Instrumental control is almost always associated with the collection and analysis of large amounts of personal data. Without proper restrictions, surveillance technologies can invade the lives of citizens more than is necessary for legitimate purposes [33].

3. Unequal access and digital inequality. Technological solutions designed to strengthen democratic control can have a limited effect or even cause inequality if a large part of the population is deprived of access to digital tools. The digital divide (between different ages, social, geographical groups) leads to the fact that not all citizens can enjoy the benefits of electronic participation or control.

Algorithmic bias and lack of accountability. The use of AI and automated systems poses risks related to the quality of the algorithms themselves. If an algorithm has a *built-in* bias in decision-making, it can lead to unfair treatment of certain groups. Another problem is the "**black box**" of AI: complex models (such as neural networks) are often opaque in their conclusions, so it is difficult to understand why the system made a certain decision. If the automated system denies a citizen access to social assistance or flags them as a threat, who is held accountable – the software developer, the state body, or the program itself? [34].

The topic of instrumental control is at the stage of scientific formation and policy development. Although there is no codified "right to democratic digital control" in international law, there is an understanding that traditional norms should be applied in the digital age as well. Although democracy, as a principle, is not directly inscribed in the norms of international law, international law can and should protect democratic values in the face of new challenges of the digital age [35].

Technological progress has provided democratic societies with powerful tools to exercise control over power – from electronic open data portals to artificial intelligence that detects corruption. Instrumental control as a type of democratic control is characterized by the use of these modern tools to enhance transparency, accountability and participation. Modern technological types of control (e-governance, AI, blockchain, automated supervision, Big Data) are already

demonstrating the ability to positively influence public administration – making it more efficient, open and sensitive to human rights. This leads to better enforcement of laws due to the inevitability of punishment. At the same time, these same technologies have highlighted new risks: the possibility of their use for undemocratic purposes, threats to privacy, increased inequality, and the emergence of algorithmic errors.

Today, the topic of technological support of democratic control is more in the plane of scientific and political-legal *discourse* than formalized law. It is developing in parallel in several directions – as a part of e-governance, as an aspect of human rights in the digital age, as a component of the theory of democratic transition. Balanced recommendations: use technology as a *tool* in the service of democracy, setting safeguards against its potential abuse.

The use of technological means of control simultaneously gives rise to several opportunities, such as the creation of an effective system for processing a large amount of information, the potential elimination of the "human factor" and the corruption component, and several ethical issues.

We state that the first attempts to introduce technological means of control have already taken place and are actively used in various fields. In particular, the means of technological control include the already familiar means of audio and video recording, automated control systems for certain types of activities (taxation, customs control, etc.),

All four control systems are united by common functions, have a common denominator – the protection of human rights, freedoms and legitimate interests. Each separate system constitutes a value orientation vector of the democratic development of national legal systems, particularly legislative system of Ukraine, regarding the transformation of the declarative provision: "a person is the highest social value" into a real constitutional legal principle protected by national legislation and international law.

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