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THE ROLE OF INDEPENDENT LEGAL RESEARCH IN THE SERVICE OF SUSTAINABILITY: FROM SWISS EXPERTISE TO STRATEGIC GUIDELINES FOR UKRAINIAN LAWMAKING

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The article explores the role of independent legal research in ensuring sustainability and countering corporate impunity. The authors analyse systemic flaws in corporate governance that allow multinational corporations to externalise social and environmental costs. Using the Airbus case (2020) and "Epstein files" as examples, the importance of legal deontology and the threats of "academic capture" are highlighted.

Martial law in Ukraine makes it vulnerable to numerous risks (specifically, regulatory arbitrage due to the country's need for reconstruction investments) inherent in the countries of the Global South, despite Ukraine's European identity and its constitutionally enshrined strategic course towards EU integration.

Special attention is paid to Ukraine's post-war recovery, focusing on the implementation of the EU Directive 2024/1760 on Corporate Sustainability Due Diligence Directive (CSDDD), anti-SLAPP (Strategic lawsuit against public participation) mechanisms, and the institutional independence of scientific expert centres to protect the public interest.

A specific focus is placed on developing mechanisms for modernising the institutional status of Ukraine's national scientific institutions through a transition from a hierarchical management model to functional autonomy based on the Swiss experience (specifically the SICL model) as autonomous centres for scientific research and lawmaking expertise for the protection of the public interest.

Key words: *sustainable development, corporate impunity, EU Directive 2024/1760 (CSDDD), due diligence, independent legal research, legal deontology, SLAPP lawsuits, NAS of Ukraine, public interest.*

Претеллі Іларія, Островська Богдана. Роль незалежних правових досліджень у забезпеченні сталого розвитку: від швейцарської експертизи до стратегічних орієнтирів для української правотворчості

У статті обґрунтовано роль незалежних правових досліджень у забезпеченні сталого розвитку та протидії корпоративній безкарності. Автори аналізують системні недоліки сучасного

корпоративного управління, які дозволяють транснаціональним корпораціям перекладати на суспільство соціальні та екологічні ризики. На прикладі справи Airbus (2020) та «файлів Епштейна» обґрунтовано важливість правничої деонтології та висвітлено загрози «академічного захоплення» науки приватними інтересами.

Воєнний стан в Україні зумовлює її вразливість до багатьох ризиків (зокрема, регуляторного арбітражу через потребу країни в інвестиціях для реконструкції), притаманних країнам Глобального Півдня, попри європейську ідентичність України та її конституційно закріплений стратегічний курс на інтеграцію в ЄС.

Особливу увагу приділено викликам для України в контексті повоєнного відновлення. Обґрунтовано необхідність імплементації Директиви ЄС 2024/1760 про корпоративну належну обачність щодо сталого розвитку, розробки анти-SLAPP (стратегічні позови проти участі громадськості) механізмів для захисту громадського контролю та зміцнення інституційної автономії наукових установ НАН України як антикорупційних фільтрів правотворчості.

Окремий акцент зроблено на розробці механізмів модернізації інституційного статусу національних наукових установ України. Запропоновано перехід від ієрархічної моделі управління до функціональної автономії за прикладом швейцарського досвіду (зокрема моделі SICL), що передбачає створення автономних центрів наукових досліджень та правотворчої експертизи для ефективного захисту публічного інтересу.

Ключові слова: *сталий розвиток, корпоративна безкарність, Директива ЄС 2024/1760 (CSDDD), належна обачність, незалежні правові дослідження, правнича деонтологія, SLAPP-позови, НАН України, публічний інтерес.*

Introduction. Contemporary corporate governance remains shaped by a structural tension: multinational corporations exercise quasi-public power over workers, consumers, local communities, and future generations, yet the legal framework regulating them still tends to prioritise shareholder value and corporate reputation over the social interests affected by corporate conduct. This paper argues that the resulting imbalance is economically, socially, and legally unsustainable, and that recent legislative and jurisprudential developments point toward a gradual correction, though much remains to be done.[1]

The argument develops along three axes. First, it examines the structural legal incentives that enable multinational corporations to externalise social and environmental costs while maximising profit [1]. Second, it considers the Airbus case (2020) as an instructive example of the gains available when legal professionals fulfil their deontological duties rather than facilitating corporate impunity. Third, it situates corporate exploitation of human vulnerability – particularly that of women and children–within broader patriarchal structures that are increasingly being contested through legal reform and growing awareness of violence against women and misogynistic bias.

The unique Ukrainian context. This perspective is particularly relevant for Ukraine, which is currently preparing for large-scale post-war reconstruction across legal, institutional, and international dimensions. This unique status conditions its vulnerability to numerous reconstruction-related vulnerabilities analogous to those seen in other dependency contexts. Ukraine's constitutional commitment to EU integration makes its institutional trajectory distinct from that of many other jurisdictions (Constitution of Ukraine, 1996, preamble, art. 102) [2]. At the same time, the conditions of war and reconstruction create temporary vulnerabilities to regulatory arbitrage, especially where rapid inflows of foreign capital may weaken incentives for long-term compliance. In this respect, Ukraine can draw from the experience of Global South countries.

[1] Fruit of a joint reflection, the paper co-written by I. Pretelli (mainly responsible for the sections "Introduction" and from "The Problem of Observed Trends privileging the protection of the Brand over that of the Population" to "Increasing Women's Participation in Corporate and Scientific Governance") and B. Ostrovska (mainly responsible for the sections "The unique Ukrainian context", "Theoretical Basis", "Methodology and Objectives", and from "The Structural Need for Institutionally Independent, Culturally Diverse Scientific Expertise" to "General Conclusions as Strategic Guidelines for Ukrainian Lawmaking towards Sustainable Development"). The views of the authors do not necessarily reflect those of their respective institutions of affiliation.

Theoretical Basis. K. Pistor [1] demonstrates how legal institutions – contract, corporate, collateral, and bankruptcy law – are systematically utilized for wealth accumulation. She describes capitalism as a legally coded regime built on private-law tools that concentrate wealth and power. To complement Pistor's analysis, which primarily targets the structural role of law in economic inequality, we argue that similar dynamics of power asymmetry can be observed within the production of legal knowledge itself. Scientific research, like corporate governance, can be shaped by hierarchies and incentives that distort independence and objectivity. This concern is echoed in the work of B. Lemaître [3], who critically examines the erosion of scientific deontology and the vulnerability of research environments. Drawing on empirical observations, Lemaître highlights how systems of academic recognition and dependency on funding may foster conformism, strategic visibility, and even commissioned bias, rather than epistemic integrity. He therefore calls for a renewed commitment to ethical standards, including the preservation of institutional autonomy from financial patronage and undue hierarchical influence. He substantiates the necessity of adhering to the principle of institutional autonomy of scientists from financial patronage, as certain hierarchical structures and mechanisms of academic reward often facilitate the reproduction of commissioned biases instead of objectivity in conducting research or providing expert assessments [3].

In parallel, the problem of corporate impunity and the potential of private international law to contribute to sustainable development have been addressed in recent scholarship by the author (I. Pretelli). Her work emphasises, in particular, the protective function of the *favor laesi* principle in transnational litigation, advocating for its broader deployment as a corrective mechanism in situations involving cross-border harm and structural asymmetries of power. This principle, which directs applicable law toward the legal system most protective of the injured party – in all cases where this party coincides with the party in a vulnerable situation, thus not in the case of SLAPPs – is proposed here as one procedural instrument through which the obligations of future generations can be given operational legal content. In this perspective, private international law may serve to counteract the systematic externalisation of social and environmental costs by private actors onto States and populations in situations of vulnerability [4].

Ukrainian legal scholarship is likewise engaging with these challenges in the context of European integration and post-war reconstruction. In particular, the methodological foundations for reforming national law are reflected in the works of N. Kuznetsova [5], where the necessity of updating civil law doctrine in accordance with European standards is substantiated.

Against this backdrop, we contend that this body of scholarship would benefit from a more explicit reorientation of private international law towards the United Nations Sustainable Development Goals. Such a shift would help prevent global corporate impunity and instead advance sustainable development. This includes, in particular, strengthening safeguards against strategic litigation (SLAPPs) in the context of Ukraine's post-war recovery.

The argument here is not that regulatory standards should impede the urgently needed inflow of foreign capital, but that due diligence requirements and anti-SLAPP mechanisms are precisely the institutional conditions that attract serious long-term investors and deter predatory short-term ones.

Methodology and Objectives. The methodology of our research is based on an interdisciplinary approach that combines comparative-legal analysis with the sociology of science. Reference to heterogeneous sources allowed us to comprehensively examine how institutional structures and professional ethics influence lawmaking, law enforcement practice, and corporate legal liability. A substantial element of the work is the application of the case study method – which builds on the experience of the Swiss Institute of Comparative Law (SICL, also referred to by its French acronym ISDC) [6; 7] –

to analyse effective mechanisms for countering institutional "capture" and corporate impunity.

Its objective is the conceptual substantiation of the role of autonomous scientific institutions and independent legal research, as well as adherence to the professional deontology of lawyers in overcoming corporate impunity to protect the public interest and ensure a sustainable development strategy.

To achieve the stated objective, the following **tasks** are envisioned:

- To analyse the structural flaws of modern corporate law (specifically the concepts of limited liability and fiduciary duty) that create obstacles to the implementation of the principles of social and environmental responsibility.
- To study the judicial precedent of the Airbus case (2020) as a model of effective interaction between anti-corruption and law enforcement agencies and the professional legal community in the field of countering transnational corruption.
- To identify threats of institutional "capture" of independent scientific research through an analysis of J. Epstein's destructive influence on academic circles and to substantiate the necessity of protecting the autonomy of legal thought from private financial patronage.
- To substantiate strategic priorities for Ukraine in the context of post-war recovery, particularly through the implementation of EU Directive 2024/1760 on Corporate Sustainability Due Diligence (CSDDD) to prevent corruption and ensure investment transparency.
- To propose mechanisms for modernising the institutional status of Ukraine's national scientific institutions through a transition from a hierarchical management model to functional autonomy based on the Swiss experience (specifically the SICL model) as autonomous centres for scientific research and lawmaking expertise for the protection of the public interest.

The Problem of Observed Trends privileging the protection of the Brand over that of the Population. The dominant legal model of the corporation was designed to enable risk-taking and capital formation, not to reckon with its socioenvironmental consequences [1]. Two foundational rules of corporate law – limited liability and the duty to maximise profit – effectively insulate MNC managers from ethical accountability to all but shareholders and creditors. The remaining social groups affected by corporate decisions, including employees, consumers, local communities, and the environment, are systematically under-protected.

This legal architecture creates predictable incentives. Multinational corporations operating through transnational value chains can exploit regulatory gaps in host States, particularly in the Global South, to reduce costs and externalise environmental and social harms. In this respect, the phenomenon of socio-environmental dumping is not accidental but systemic: conduct that would be constrained in the State of origin may be displaced abroad under a double standard in fundamental rights protection. In the absence of binding international norms, the imperative of profit maximisation frequently reinforces this logic rather than restraining it.

Legal counsel plays an ambiguous role in this structure. The investment on legal teams aimed at the systematic recourse to legal tactics to resist accountability, the deliberate obstruction of justice documented in geographically dispersed cases[2], and the use of Strategic Lawsuits Against Public Participation (SLAPPs) to silence human rights defenders [8], demonstrate that legal expertise has frequently been mobilised to perpetuate corporate impunity rather than constrain it. In some cases, the protection of corporate reputation has been prioritised over the broader deontological duties of legal professionals toward accountability, transparency, and the public interest..

The Rana Plaza collapse (2013), in which 1,130 garment workers lost their lives in Bangladesh, represents the most catastrophic recent illustration of how social costs – in health, autonomy, cultural impoverishment – are ultimately borne by the communities and public institutions of the Global South, not by the corporations

[2] Reference to UK, Nigeria and Ecuador cases are documented in the paper quoted in Pretelli (2025) [4].

that generate profits by externalising production.

The exploitation of human vulnerability as a resource for cost reduction is considered structural by Marxist and critical legal scholars[3]. Though pluralist and institutionalist accounts offer competing explanations, there is an undeniable convergence on the need for binding regulatory correction, testified by the contemporary legal, political, and scientific debate. At the same time, corporate strategies that delay, distort, or obstruct accountability proceedings reveal how legal expertise can be mobilised to frustrate access to justice in the name of the economic interest of an elite. This underscores the need to align corporate law more closely with access to justice and social accountability, reduce social dumping and rebalance the relationship between capital and labour. Bearing in mind that the concentration of wealth through the use of transnational schemes or concealment in tax havens, hinders from the outset a fair redistribution and undermines the conditions for broader social progress.

The Airbus Case and the Importance of Legal Resilience to Corruption. Against the dominant model of brand protection and legal obstruction, the Airbus case (2020) offers an instructive counterexample.

In 2016, Airbus's legal team disclosed to the UK Serious Fraud Office (SFO) certain irregularities in payments made to third-party business partners, triggering what would become a joint UK-French investigation and a parallel US proceeding. On 31 January 2020, simultaneous judicial approvals were given in three jurisdictions to Deferred Prosecution Agreements (DPAs) between Airbus and, respectively, the UK SFO, the French Parquet National Financier (PNF), and the US Department of Justice (DOJ), resulting in combined penalties of approximately €3.6 billion – the largest anti-corruption settlement in history at the time [9].

The conduct at issue was grave. Bribery was endemic in two of Airbus's core business areas, involving senior and very senior employees across every continent in which the company operated, over a sustained period from 2004 to 2016 [10]. The marketing division of Airbus was identified as a central locus of corrupt practice and ultimately disbanded as part of the remediation. The French DPA described misconduct in sixteen jurisdictions across the Middle East, Asia, Latin America, and Africa, implicating state-owned enterprises and foreign public officials.

What distinguishes the Airbus case is the decision by the company's legal advisers and new leadership to self-report rather than conceal the wrongdoing, enacted by their own colleagues. This decision was, fundamentally, a deontological one – and, as the outcome would demonstrate, also a strategically rational one. The two are not in conflict; indeed, the case illustrates their alignment. Lawyers owe duties both to their clients and to the legal order itself. Acting with transparency instead of concealing illegal acts is in line with a fundamental obligation of the legal profession, which could be said to be akin to the Hippocratic oath for medical professionals. Lawyers should never use their technical knowledge to circumvent or violate laws, becoming accomplices of impunity. The UK judgment details the subsequent transformation of Airbus into what it describes as effectively a different company – a new CEO, CFO and General Counsel were appointed, the Board was largely reconstituted, the marketing branch was eliminated, over one hundred employees associated with the corrupt conduct were terminated, and an independent compliance review panel was instituted. Yet the legal office remained the same.

The outcome for the brand was positive as it survived the scandal and self-correction prompted rehabilitation. Airbus avoided the collateral consequences of criminal conviction – including potential debarments that the Court estimated could have produced lost revenues of up to €200 billion and GDP reductions of over €100 billion in each of the UK, France, Germany, Spain, and the United States. The DPA

[3] To analyse the long-standing roots of this issue, see the following critical works: Gordon, D. (1976) *Capitalism, Class and Crime*; Snider, L. (1993) *Corporate Crime and the Politics of Regulation*; and Tombs, S. & Whyte, D. (2015) *The Corporate Criminal: Why Corporations Must Be Abolished*.

mechanism imposed substantial financial penalties, ongoing compliance monitoring by the French Anti-Corruption Agency (AFA), and a three-year probationary regime. The case demonstrates, in practice, the argument that corporate accountability and long-term brand resilience are not opposites. They are, ultimately, aligned.

By assuming liability, Airbus prevented the individual prosecution of its employees, budgeted the financial penalty as a cost of doing business, and ultimately preserved further economic loss and reputational damage. The case thus illustrates how legal professionals can refuse to subordinate deontological duties to institutional loyalty, with demonstrably positive outcomes for all parties.

Legislative Convergence towards Accountability. The Airbus case (2020) reflects a broader legislative convergence toward binding corporate accountability for socioenvironmental impacts. The UK Bribery Act 2010 [11], under which Airbus was charged with five counts of failing to prevent bribery, introduces a 'failure to prevent' offence with extraterritorial reach – a structural innovation that shifts the burden of proof and reframes corporate liability as a positive obligation.

Parallel developments include the French Loi relative au devoir de vigilance (2017) [12], the German Lieferkettensorgfaltspflichtengesetz (2021) [13], the Swiss Federal Law on Transparency in Non-Financial Matters [14], the EU Corporate Sustainability Due Diligence Directive (2024/1760) [15], and the EU Anti-SLAPP Directive [16] – all of which reflect a shared recognition that the externalisation of social and environmental costs to communities in the Global South is neither ethically acceptable nor, in the long run, economically sustainable. Private international law rules, particularly the Rome II [17] Regulation's *favor laesi* principle and the growing jurisprudence on MNC home-country jurisdiction, are building the procedural architecture through which victims can access justice where it is meaningful [18].

Benefit corporations – whether in the Italian form introduced in the 2016 Stability Law or in comparable international models – represent a structural complement to these regulatory developments: by freeing directors from the exclusive focus on maximisation of profits at all costs, they create space for ethical decision-making that is legally protected rather than merely tolerated. The Airbus self-reporting decision might, in a benefit corporation structure, have been legally unambiguous from the outset rather than a departure from prevailing institutional (mal)practice.

Increasing Women's Participation in Corporate and Scientific Governance. The subordination of women – historically embedded in religious traditions, family law, and cultural practices across all societies [19] – contributes to designing patterns of corporate exploitation [20].

Recent disclosures from the Epstein files (US Department of Justice, disclosed in early 2026) [21] may be taken as a confirmation that private financial patronage can have a significant influence on scientific networks, potentially compromising objectivity in knowledge production, with direct misogynistic effects.[4] Evidence from those files suggests that private financial patronage of scientific elites can function as a lever for enforcing misogyny at the very apex of the knowledge hierarchy [23]. Such interventions highlight risks of donor-driven selection biases in academic circles.

Far from being anecdotal, the case aligns with broader sociological analyses of scientific hierarchies. The significance lies not in any single email but in the documented pattern of access-based exclusion operating across multiple elite institutions over an extended period, as corroborated by the Nature and OHCHR analyses cited below. Narcissistic dynamics – prioritising visibility and network access – exacerbate phenomena known as the "Matthew effect" [24] and the "Matilda effect" [25; 26], which capture the experience of dominant actors marginalising outsiders, in

[4] These files document Jeffrey Epstein's role as primary funder of the Edge Foundation, which organised elite scientific retreats. In a 2018 email, Epstein instructed organiser John Brockman to exclude two women from the guest list, stating, "The women are all weak, and a distraction" (for further details, see Kutz (2026) [22]).

particular, women. Epstein's documented ties to figures like Larry Summers (former Harvard president) and Noam Chomsky, read in conjunction with Epstein's misogynistic remarks (e.g., minimising women's intellectual contributions), exemplify how patronage may reinforce exclusionary structures.

Complementing corporate critiques like Pistor's (2019) – who shows how legal coding externalises costs to vulnerable groups – these patterns reveal epistemic capture: private interests shaping research agendas at the expense of diverse, public-interest expertise, and illustrating how privileged elite access can erode the very commitments to power critique that independent scholarship requires.

The Structural Need for Institutionally Independent, Culturally Diverse Scientific Expertise. The Epstein case thus raises a question that is structurally prior to all the legislative reforms discussed: if the knowledge on which policy and law are built is itself subject to capture by private interests, the integrity of the entire reform project is compromised. Ukraine's post-Maidan reform experience and wartime civil society have highlighted the significant role of women in governance innovation, anti-corruption advocacy, and accountability efforts. In this context, the structural exclusion of women from scientific governance would not only raise an ethical concern but also weaken the epistemic and institutional capacity needed for reconstruction.

The structural response to this problem is not merely to sanction individuals, but to design institutions that are constitutively resistant to the capture of knowledge-production by dominant private interests. This requires, in particular, institutions that are simultaneously publicly funded, genuinely independent from national government interests, and constitutively multicultural in their composition and mandate. Drawing on Polanyi's epistemology, science requires a substratum broader than itself – a society that cultivates ideals such as the sense of truth and justice – and scientists should actively proclaim their values rather than retreat behind a facade of neutrality. The scientific community should resurge in the form of a well-mixed and transnational "society of explorers", transcending national and university interests in the pursuit of truth, justice, and respect for human diversity.

The Swiss Institute of Comparative Law. Comparativist research institutions structurally insulated from both market pressures and national political agendas, such as the Swiss Institute of Comparative Law (SICL), based in Lausanne, can offer a working model worth examining. The Institute is funded principally by the Swiss Confederation but operates with full scientific independence. Its mandate is explicitly comparative and transnational: it provides legal opinions to Swiss courts, public authorities, and international organisations on questions requiring knowledge of foreign and international law, and its researchers are drawn from legal systems across the world.

Public funding without programmatic control creates the conditions for genuine independence: the Institute does not need to attract private patronage, does not depend on the visibility strategies that make scientists vulnerable to the kind of capture documented above, and is not subject to the incentive to produce results solely for the purpose of securing the next grant cycle. Second, structural multiculturalism – the presence within a single institution of jurists trained in civil law, common law, Islamic law, customary law, and other systems – enables the kind of internal dialogue that is impossible in monocultural institutions, even when they promote the study of laws which are foreign to them. The diversity of legal traditions represented by autochthone lawyers is the epistemological condition of the Institute's work. Third, the Institute's independence from any single national interest means that its comparative analyses are not instrumentalised for national advocacy. It produces knowledge in the common interest, not in the interest of the state that funds it.

The argument for such institutions is not merely idealistic: it follows directly from

the analysis of how narcissism shapes scientific hierarchies [3], how private patronage can weaponise knowledge-production against women, and how the externalisation of social costs to vulnerable populations in the Global South is sustained, in part, by the failure of mainstream Western scholarship to take the perspectives of those populations seriously as sources of knowledge rather than merely as objects of study.

General Conclusions as Strategic Guidelines for Ukrainian Lawmaking towards Sustainable Development. Thus, in the current conditions of martial law and the future post-war recovery of Ukraine, resolving the issue of corporate impunity becomes of critical importance. This is accentuated by significant risks that powerful multinational corporations will be tempted to minimise costs of compliance with environmental or social norms, taking advantage of the difficult state of the national economy and appealing to the importance of its rapid capitalisation. Under such circumstances, the protection of national interests from bad-faith strategies of foreign investors through the implementation of institutional safeguards and preventive mechanisms of legal liability must come to the fore.

It must be emphasised that legal obligations to future generations must be based on the fundamental principle of *neminem laedere* (to harm no one). In this context, the principle of *favor laesi* (favouring the victim), as discussed in Sections "Theoretical Basis" and "Legislative Convergence towards Accountability" above (thus within the limits required by SLAPPs), emerges as an effective rule allowing private individuals to ensure compliance with the rights of future generations [4].

Against this backdrop, the implementation of EU Directive 2024/1760 on Corporate Sustainability Due Diligence (CSDDD) [15] into national legislation is a strategic priority for Ukraine. It will serve as a legal safeguard that prevents MNCs from exploiting the state's valuable resources while guaranteeing compliance with European standards of responsibility at all stages of reconstruction. This Directive is not only a requirement for European integration, but also a safeguard against the monopolisation of investment flows. This will help avoid the exploitation of natural and human resources during reconstruction. At the same time, supply chain transparency and mandatory due diligence must become the foundation for attracting long-term investment. Therefore, for Ukraine, which requires an inflow of foreign capital for its post-war revival, it is critically important to implement preventive measures during the state of war to preclude the priority of short-term profit maximisation over sustainable development.

A secondary yet new fundamental challenge for the state is the implementation of anti-SLAPP mechanisms, which serve as an integral component of the state's democratic transformation during the reconstruction process. Implementing this protection will shield civil society from judicial harassment and legal pressure aimed at intimidating and suppressing public oversight of compliance with environmental, urban planning, and other standards, thereby ensuring the supremacy of the rule of law over capital interests throughout the recovery period.

In the context of Ukrainian procedural law, the implementation of anti-SLAPP mechanisms constitutes a strategic guideline necessitated by alignment with the standards of CSDDD. Given that corporations frequently employ defamation lawsuits as a tool for the financial exhaustion of opponents, the legislator's priority should be the introduction of an 'early dismissal' mechanism for claims bearing the hallmarks of SLAPP.

It is worth noting that in Ukraine, such lawsuits are a problem not only for whistleblowers but also for journalists, editorial offices, civil society activists, and others who expose corruption or illegal activities [27]. While the European legislator addressed this in Article 23 of the Directive, the absence of such protection in Ukraine creates a legal loophole that can lead to the abuse of judicial mechanisms to pressure whistleblowers. This results in a lack of protection against the initiation

of bad-faith legal proceedings by these same entities against whistleblowers. In particular, the lack of liability for such actions opens the door for SLAPP or other forms of retaliation aimed at discrediting or intimidating individuals who disclose information of public interest.

For example, Lithuania has become a pioneer in implementing anti-SLAPP measures, particularly regarding the mandatory reimbursement of legal costs and the early dismissal of bad-faith lawsuits under the Law on Amending the Code of Civil Procedure (No. XIV-1011, 2022) [28]. Specifically, under Article 12 of the Lithuanian Law on the Protection of Whistleblowers (2017) [29], the amount of remuneration is proportional to the damage caused or potentially caused by the violation. Notably, there is no established maximum limit for this reward. Furthermore, the payment is not contingent upon a final court judgment.

In contrast, Ukraine's framework maintains a fixed cap on such payments, which cannot exceed three thousand minimum wages, and stipulates that remuneration is only possible following the issuance of a final criminal conviction.

Additionally, it is essential to establish preventive sanctions in the form of reimbursement of the defendant's legal costs at the plaintiff's expense, following the example of the best legal practice. This should be implemented within the framework of the doctrine of the prohibition of abuse of procedural rights (specifically, by supplementing the provisions of Article 44 of the Commercial Procedural Code of Ukraine [30] and Article 44 of the Civil Procedural Code of Ukraine [31]).

The implementation of this approach is possible in a way where legal liability is tied to the place of decision-making, i.e., to the location of the factual centre of management (the 'place of effective management') of the parent company. This is critical for Ukraine as future investment contracts regarding reconstruction will be concluded primarily with large foreign entities. Consequently, in the event of dispute resolution, victims will be able to appeal to the jurisdiction where the parent company is located. Since the CSDDD introduces preventive 'due diligence' mechanisms in the context of corporate liability, this will allow for the prevention of offenses, thereby avoiding the stage of judicial disputes and relieving the burden on the judicial system. Thus, the overall harmonisation of national legislation with EU standards (specifically the CSDDD) is a fundamental goal for Ukraine on its path to European integration. Such a policy will prevent the inflow of capital linked to corruption schemes or sanctions evasion, and will facilitate the attraction of only those investors who are willing to operate transparently, thereby increasing the country's international investment attractiveness.

The strengthening of legal deontology in this context serves as an instrument for sustainable development, without which legislative reform would remain merely in the theoretical plane on paper. In this regard, the landmark Airbus case (2020) is illustrative for improving legal mechanisms of interaction and openness between business and the state in countering transnational corruption. It demonstrates that corporate impunity can only be limited when legal instruments (such as the UK Bribery Act 2010 and Deferred Prosecution Agreements/DPAs) are combined with professional ethics. Instead of using mechanisms to conceal offences (which is often the norm in the corporate world), the discovered evidence forced the company into radical transparency and an internal cultural reform. For Ukraine, this case serves as a roadmap: lawmaking expertise must elaborate rules able to function as 'anti-corruption filter' that protects the public interest from lobbyist pressure [10].

In summary, it should be emphasised that compliance with legal deontology in the context of sustainable development acts not merely as an ethical basis but as a necessary instrument for the implementation of reforms. Without adherence to high standards of professional responsibility by lawyers engaged in lawmaking, law enforcement, and expert activities, any legislative innovations (particularly regarding corporate accountability and due diligence) risk remaining purely formally symbolic whereas they should

create effective protection mechanisms. Such an approach is an indicator of legal efficacy, which transforms the theoretical legal framework into factual law enforcement.

In this context, independent scientific and legal research and expertise emerge as one of the key instruments for ensuring national security. They serve as a specialised anti-corruption filter to prevent lobbying and social dumping, guaranteeing the transparency of the investment environment and the protection of the public interest and human rights, thereby forming a legal field in which the sustainable process of state reconstruction will be carried out.

As demonstrated in our study through the example of the 'Epstein files', the institutional 'capture' of scientific discourse is a direct threat to sustainable development as it corrupts the knowledge upon which political and legislative decisions are based. Independent science and legal research cannot exist where their funding (even legal) requires loyalty to private interests at the expense of the public good. This example of the vulnerability of scientific and legal institutions in the Western context serves as a critical warning for jurisdictions undergoing legal transformation, such as Ukraine, as it prepares for large-scale post-war reconstruction.

Under such conditions, national scientific institutions in Ukraine must function on the principles of impartiality as institutionally autonomous expert centres, protected from private patronage and political pressure. Drawing on the successful experience of the Swiss Institute of Comparative Law (SICL), domestic institutions require effective mechanisms to safeguard against the risks of private and institutional capture of knowledge-production processes. While the specific institutional conditions of Switzerland cannot be replicated wholesale, the underlying principles – public funding, scientific independence, and structural multiculturalism – are organisationally transferable and constitute the relevant model for Ukrainian reform. This specifically concerns preventing the use of private forms of funding (grants, donations) as instruments of influence that induce conflicts of interest and improper loyalty among scientists. This can lead to the formulation of commissioned expert opinions and the use of academic authority to legitimise narrow corporate goals and private interests. Such phenomena pose a direct threat to the objectivity of lawmaking expertise and negate the mission of science in serving society and protecting the public interest.

In this context, the Institute of Lawmaking and Scientific and Legal Expertise of the National Academy of Sciences of Ukraine [32] has the potential to function as a leading autonomous centre for scientific-legal expertise and verification of legislative initiatives, identifying latent lobbying and corruption risks. This will ensure that the implementation of the CSDDD into the national legal field is based on principles of scientific objectivity, thereby preventing the satisfaction of narrow lobbyist groups' interests over the public interest.

In conclusion, it should be emphasised that such a policy regarding the 're-coding' of Ukrainian law – in Pistor's sense of restructuring the legal coding of capital relationships – toward transparency of institutional mechanisms for its implementation, social responsibility, the protection of human rights and dignity, and the public interest will serve as an effective instrument for protecting Ukraine's national interests. Such an approach will ensure proper harmonisation of national legislation with the EU *acquis communautaire*, laying the foundation for its post-war revival based on sustainable development [15].

BIBLIOGRAPHY:

1. Pistor K. *The code of capital: How the law creates wealth and inequality*. Princeton University Press, 2019.

2. Konstytutsiia Ukrainy [Constitution of Ukraine]. (1996). https://zakon.rada.gov.ua/laws/show/254к/96-вр

3. Lemaître B. Science, narcissism and the quest for visibility. *The FEBS Journal*, 2017. *284* (17), 2829–2837. https://doi.org/10.1111/febs.14032

4. Pretelli I. Limiting corporate impunity through public and private international law. *Mass Claims: An International Journal with a European Focus*, 2025 (1). https://denhollander.info/artikel/18726

5. Kuznetsova N. S. (Ed.). *Rekodyfikatsiia tsyvilnoho zakonodavstva Ukrainy: vyklyky chasu* [Recodification of the civil legislation of Ukraine: challenges of time]. 2021. Helvetika. https://lawmaking.academy/wp-content/uploads/Monografiya-Rekodyfikatsiya-tsyvilnogo-zakonodavstva-Ukrayiny.-Vyklyky-chasu.-Pershe-vydannya.-2021.pdf

6. Loi fédérale sur l'Institut suisse de droit comparé (LISDC) du 28 septembre 2018, RS 425.1. https://www.fedlex.admin.ch/eli/cc/2019/586/fr

7. Conseil fédéral. *Message sur la révision totale de la loi fédérale sur l'Institut suisse de droit comparé (LISDC)* (FF 2018 899). 2018. https://www.fedlex.admin.ch/eli/fga/2018/336/fr

8. Kramer X. E., de Graaf T. *SLAPPs and the European Union: The upcoming Directive and the role of private international law*. European Parliament, Policy Department for Citizens' Rights and Constitutional Affairs. 2022. https://www.europarl.europa.eu/RegData/etudes/STUD/2022/732268/IPOL_STU(2022)732268_EN.pdf

9. Serious Fraud Office. *SFO enters into €3.6bn settlement with Airbus as part of global joint investigation* (Case No: CO/4482/2019). 2020, January 31. https://www.sfo.gov.uk/2020/01/31/sfo-enters-into-3-billion-euro-settlement-with-airbus-as-part-of-global-joint-investigation/

10. Director of the Serious Fraud Office v Airbus SE, Deferred Prosecution Agreement, approved by Dame Victoria Sharp, Crown Court at Southwark, 31 January 2020. https://www.judiciary.uk/wp-content/uploads/2020/01/Director-of-the-Serious-Fraud-Office-v-Airbus-SE-1.pdf

11. UK Bribery Act 2010, s. 7. 2010. https://www.legislation.gov.uk/ukpga/2010/23/section/7

12. Loi n. 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre. *Journal officiel de la République française*. URL: https://www.legifrance.gouv.fr/loda/id/JORFTEXT000034290626/.

13. Lieferkettensorgfaltspflichtengesetz [Act on Corporate Due Diligence Obligations for the Prevention of Human Rights Violation in Supply Chains] of 16 July 2021 (BGBl. I S. 2959). https://www.csr-in-deutschland.de/SharedDocs/Downloads/EN/act-corporate-due-diligence-obligations-supply-chains.pdf?__blob=publicationFile

14. Federal Act on the Amendment of the Swiss Civil Code (Part Five: The Code of Obligations) of 30 March 1911 (Status as of 1 January 2024), Arts. 964a–964c. https://www.fedlex.admin.ch/eli/cc/27/317_321_377/en#art_964_a

15. Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859. (2024). *Official Journal of the European Union*. https://eur-lex.europa.eu/eli/dir/2024/1760/oj

16. Directive (EU) 2024/1069 of the European Parliament and of the Council of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings ("Strategic lawsuits against public participation"). *Official Journal of the European Union*, L 2024/1069. http://data.europa.eu/eli/dir/2024/1069/oj

17. Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II). (2007). *Official Journal of the European Union*, L 199/40. http://data.europa.eu/eli/reg/2007/864/oj

18. ELI Project on Business and Human Rights (Diana Wallis, Jonas Grimheden) https://www.europeanlawinstitute.eu/projects-instruments/instruments/eli-fra-report-on-business-and-human-rights-access-to-justice-and-effective-remedies/

19. Pretelli, I. (2024). The consequences of violence against women and children in armed conflicts for their intangible cultural heritage: A diachronic perspective on the universality of women's rights. In G. Mastandrea Bonaviri & M. M. Sadowski (Eds.), *Heritage in war and peace. Law and visual jurisprudence* (Vol. 12, pp. 471–490). Springer. https://doi.org/10.1007/978-3-031-47347-0_30

20. Nova Centre on Business, Human Rights and the Environment. (2022, June 30). *An intersectional feminist strategy for corporate accountability: Using strategic litigation to protect reproductive rights*. Nova BHRE Blog. https://novabhre.novalaw.unl.pt/an-intersectional-feminist-strategy-for-corporate-accountability-using-strategic-litigation-to-protect-reproductive-rights/

21. UN Human Rights Council Independent Experts (2026). 'Flawed Epstein Files disclosures undermine accountability for grave crimes against women and girls.' OHCHR Press Release, 10 February 2026. https://www.ohchr.org/en/press-releases/2026/02/flawed-epstein-files-disclosures-undermine-accountability-grave-crimes

22. Kutz, J. The boys' club: How Epstein's influence shaped the exclusion of women in STEM. The 19th. 2026, February 23. https://19thnews.org/2026/02/epstein-files-academic-research-women-scientists/

23. Garisto D. Epstein files reveal deeper ties to scientists than previously known. *Nature*, *6*. 2026. https://doi.org/10.1038/d41586-026-00388-0

24. Merton R. K. The Matthew Effect in Science. *Science*, 1968. *159* (3810), 56–63. https://doi.org/10.1126/science.159.3810.56

25. Knobloch-Westerwick S., Glynn C. J. The Matilda Effect–Role congruity effects on scholarly communication: A citation analysis of communication research and journal of communication. *Science Communication*. 2013. https://doi.org/10.1177/1075547012472684

26. Asmodelle E. The collaboration of Mileva Marić and Albert Einstein. *Asian Journal of Physics*, 2015. 24 (3), 325–340. https://asianjournalofphysics.com/volume-24-no-4/

27. Zinchenko-Tulub Ya. S., Ostrovska B. V. Reformy dlia zakhystu vykryvachiv v Ukraini: mizhnarodnyi dosvid ta perspektyvy vprovadzhennia [Whistleblower protection reforms in Ukraine: International experience and implementation prospects]. *Naukovyi visnyk publichnoho ta pryvatnoho prava* [*Scientific Bulletin of Public and Private Law*], 2025. *1* (37). https://doi.org/10.32844/2618-1258.2025.1.37

28. Republic of Lithuania. *Lietuvos Respublikos civilinio proceso kodekso 93, 95, 142, 144, 148, 285 ir 286 straipsnių pakeitimo įstatymas* [Law on Amending Articles 93, 95, 142, 144, 148, 285 and 286 of the Code of Civil Procedure of the Republic of Lithuania] (No. XIV-1011). Teisės aktų registras [Register of Legal Acts]. TAR Nr. 2022-06552. 2022. https://www.e-tar.lt/portal/lt/legalAct/398e09f2b84211ecaf79c21204c35941

29. Republic of Lithuania. (2017). *Law on the Protection of Whistleblowers* (No. XIII-804). https://www.prokuraturos.lt/data/public/uploads/2020/02/1.9-225-praneseju-apsaugos-istatymas-eng.pdf

30. Hospodarskyi protsesualnyi kodeks Ukrainy [Commercial Procedural Code of Ukraine] No. 1798-XII. (1991). https://zakon.rada.gov.ua/laws/show/1798-12

31. Tsyvilnyi protsesualnyi kodeks Ukrainy [Civil Procedural Code of Ukraine] No. 1618-IV. (2004). https://zakon.rada.gov.ua/laws/show/1618-15

32. Institute of Lawmaking and Scientific and Legal Expertise of the NAS of Ukraine. (2024). *Statute of the Institute of Lawmaking and Scientific and Legal Expertise of the National Academy of Sciences of Ukraine*. https://lawmaking.academy/wp-content/uploads/Statut_Instytutu_pravotvorchosti_ta_naukovo_pravovyh_ekspertyz_NANU-1.pdf

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