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Rule of Law in the Context of Ukraine's European Integration: Challenges and Implementation in Criminal Justice

Oleksandr Yu. Dudchenko*
Yaroslav Mudryi National Law University
Kharkiv, Ukraine
**e-mail: o.yu.dudchenko@nlu.edu.ua*

Abstract
The relevance of this topic arises from the challenge of ensuring the rule of law, especially in criminal justice, amid Ukraine's candidate status for membership in the European Union. The national legal doctrine still faces uncertainty about the essence of this concept and its role in practical legal relations. The purpose of the article is to ascertain whether the rule of law is a genuine principle underpinning criminal justice or rather a strategic goal pursued by law enforcement and courts in the course of reforms and alignment with European standards. This inquiry was conducted through historical-legal and comparative analyses, examination of legislative acts and their enforcement, as well as a critical review of scholarly works addressing the impact of positivist traditions on understanding the rule of law in Ukraine. The findings reveal that formally recognizing the rule of law in the Constitution and legislation is not matched by its proper implementation. Residual Soviet positivism constrains its perception to a merely declarative norm. Additionally, the lack of a clear distinction between principle and goal hinders effective application in criminal proceedings. Based on the study, to enhance the rule of law in criminal justice, it is proposed to overcome legal formalism, update educational programs, and strengthen the role of natural law in legal practice. These measures will help establish a genuine foundation for the rule of law, making it an integral part of criminal justice and a key element in Ukraine's successful European integration.

Key words: *rule of law; European integration; criminal justice; principles of law; human rights; legal reform; legal positivism; natural law; legal certainty.*

Верховенство права в контексті євроінтеграції України: виклики та імплементація у кримінальному судочинстві

Олександр Юрійович Дудченко*
Національний юридичний університет імені Ярослава Мудрого
Харків, Україна
**e-mail: o.yu.dudchenko@nlu.edu.ua*

Анотація
Актуальність теми зумовлена проблемою забезпечення верховенства права, особливо в кримінальному судочинстві в контексті набуття Україною статусу кандидата на членство в Європейському Союзі. Вітчизняна правова доктрина досі зіштовхується з невизначеністю щодо сутності цього поняття та його ролі в реальних правовідносинах. Мета статті полягає в тому, щоб дослідити, чи є верховенство права справжнім принципом, що лежить в основі кримінальної юстиції, чи воно залишається радше стратегічною метою, до якої прагнуть органи правопорядку та суди у процесі реформ і зближення з європейськими стандартами. Досягнення окресленої мети стало можливим завдяки використанню історико-правового і порівняльного аналізу, розгляду нормативних актів та практики їх реалізації, а також критичного огляду наукової літератури щодо впливу традицій позитивістського підходу на розуміння верховенства права в Україні. Отримані результати свідчать про те, що формальне визнання верховенства права в Конституції та законодавстві не супроводжується належним утіленням у правозастосуванні. Залишковий вплив радянського позитивізму проявляється в обмеженому сприйнятті верховенства права як суто декларативної норми. Крім того, відсутність чіткого розмежування між принципом і метою ускладнює ефективне використання цієї цінності в кримінальному судочинстві. За результатами проведеного дослідження з метою поглибленого впровадження верховенства права в кримінальну юстицію пропонується подолання правового формалізму, оновлення освітніх програм і посилення ролі природного права у правозастосуванні. Зазначені заходи створять підґрунтя для формування реального фундаменту верховенства права, що має стати невід'ємною частиною практики органів кримінальної юстиції та запорукою успішної євроінтеграції України.

Ключові слова: *верховенство права; європейська інтеграція; кримінальне правосуддя; принципи права; права людини; правова реформа; юридичний позитивізм; природне право; юридична визначеність.*

Introduction

Discussions about legal principles, particularly in the intersection of law and morality, have a long intellectual tradition tracing back to antiquity. Classical thinkers such as Aristotle, in works like Nicomachean Ethics, explored ideas that can be interpreted today as principles of justice, morality, and law [1]. For Aristotle, notions such as "righteousness" and "virtue" served as foundational pillars of an ethical and just society. Likewise, Roman law laid the groundwork for what would later become the principles of modern legal systems. Roman jurists formulated doctrines that deeply influenced the development of both private and public law in Europe, including ideas of justice, legality, and equality before the law [2].

The medieval period and Enlightenment further refined and systematized these ideas. The writings of John Locke, Jean-Jacques Rousseau, and Immanuel Kant were particularly instrumental in shaping the modern conception of legal principles – especially natural rights, popular sovereignty, the separation of powers, and individual liberty.

However, the term "principle" gained broader usage within legal science with the advent of modern jurisprudence. Significant contributions to the development and classification of legal principles were made by theorists such as Hans Kelsen [3], Léon Duguit [4], & Roscoe Pound [5]. Their works helped define principles as foundational doctrines upon which legal norms are both created and applied.

In the contemporary era, amid globalization, technological advancement, and growing societal awareness, legal principles are acquiring new dimensions. Challenges such as digitalization, environmental change, human rights protection, and the expansion of international law necessitate a rethinking – and, arguably, a recalibration – of traditional legal principles. These principles must now serve not only as the foundation for legislative drafting but also as clear interpretive guidelines adaptable to shifting social realities. They are expected to shape legal systems that accommodate cultural diversity while ensuring protection of fundamental human rights and freedoms. This interpretive function is particularly crucial on Ukraine's path toward European integration.

A key instrument in this process is the Treaty of Lisbon [6], which amended the Treaty on European Union and the Treaty establishing the European Community, introducing an explicit value framework for member states. According to this framework, the Union is founded on respect for human dignity, freedom, democracy, equality, the rule of law, and human rights, including minority rights. These values are shared among all member states within a society characterized by pluralism, non-discrimination,

tolerance, justice, solidarity, and gender equality (Art. 3). Additionally, the treaty stipulates that any European state seeking membership must not only respect but also commit to upholding the values enshrined in Art. 2 of the Consolidated Treaty on the European Union [7]. Consequently, the principles of democracy and the rule of law are expected to guide both the internal and external actions of the EU. Through the constitutionalization of shared values, EU political elites sought to unite the peoples of Europe, instill a sense of belonging, and legitimize the Union's purpose, both internally and in global affairs [8].

Following its formal recognition as a candidate for EU membership on June 23, 2022, Ukraine became officially bound to adhere to the core values of the European Union set out in Article 2 of the Consolidated Treaty. Among these, the rule of law occupies a central position as the most vital political ideal of our time. Yet, considerable confusion remains regarding what exactly "the rule of law" entails and how it functions in practice [9]. The experience of the EU's fifth enlargement round revealed that, despite tangible progress in some states, transformation in the sphere of the rule of law proved to be the most complex and protracted aspect of integration – underscoring its centrality as an early-stage accession priority [10].

In light of the above, this article aims to provide a comprehensive analysis of the rule of law in the context of Ukraine's European integration and to examine its actual impact on the criminal justice system. The research seeks to identify the characteristics that influence the practical implementation of this principle within Ukraine's legal framework. To accomplish this, the study explores the evolution of the notion of "principle" in legal science, assesses its contemporary significance, and evaluates the role of EU values – particularly those set forth in the Lisbon Treaty – in guiding Ukraine's legal transformation. Special attention is given to the difficulties Ukraine faces in adapting the rule of law to its domestic criminal justice system and to the risks stemming from the divergence between the formal recognition of this principle and its real-world application. The analysis of legal provisions and enforcement mechanisms is aimed at outlining the necessary steps for enhancing the institutional capacity of the state in ensuring the rule of law. Lastly, the study addresses the crucial question of harmonizing national legal traditions with overarching European standards, striking a balance between regulatory formalism and the effective safeguarding of human rights and freedoms.

Materials and Methods

This study on the rule of law in the context of Ukraine's European integration – and its implementation within the criminal justice system –

adopts a comprehensive methodological framework combining various approaches to legal analysis. The chosen methodology reflects the need to obtain objective scholarly insights while aligning with current trends in legal scholarship.

At the initial stage, a theoretical and legal analysis was conducted to explore the conceptual essence and historical evolution of the rule of law across different legal traditions. Particular attention was paid to the development of this concept within the philosophical-legal doctrines of Aristotle, Locke, Rousseau, Kant, Kelsen, Duguit, and other thinkers whose ideas have significantly shaped contemporary understandings of law. The study examined dominant doctrinal positions that interpret the rule of law either as a principle, a legal value, or a normative goal of the legal system. Special emphasis was placed on the influence of both legal positivism and natural law theory in shaping interpretations of the rule of law within European and Ukrainian legal traditions.

The next phase involved a comparative legal analysis, aimed at identifying similarities and differences in how the rule of law has been implemented in various legal systems. The focus here was on examining the experiences of European Union member states that underwent legal transformations in response to EU standards. Of particular interest were the post-socialist countries of Central and Eastern Europe – namely Poland, the Czech Republic, and Romania – whose legal traditions resemble Ukraine's and which also had to confront and overcome the legacy of Soviet-style legal positivism.

The study also incorporated a normative legal analysis of both international and domestic legal instruments governing the rule of law. This included provisions from the Consolidated Treaty on European Union, the Treaty of Lisbon, and key European standards related to judicial procedures and human rights protection. At the national level, the analysis examined relevant norms from the Constitution of Ukraine, the Criminal Procedure Code of Ukraine, laws on the judiciary and judicial status, and various ministerial acts regulating the operations of criminal justice institutions.

Empirical data reflecting the actual state of the rule of law in Ukraine – and its perception on the international stage – were also utilized. These sources included official reports from the European Commission, rankings from the World Justice Project's Rule of Law Index, and analytical findings published by the Venice Commission. Analysis of these data sets made it possible to identify persistent problems hindering the effective realization of the rule of law within Ukraine's criminal justice system.

Given the significance of public legal consciousness in shaping the practical implementation of the rule of law, the study also employed a socio-legal approach. It examined prevailing public attitudes toward the judiciary and law enforcement, including levels of institutional trust, which substantially influence how the rule of law operates in practice. Relevant sociological surveys were used to assess public perceptions of the fairness and impartiality of judicial decisions.

The integrated approach adopted in this study thus enabled an examination not only of the legal and normative framework, but also of how the rule of law functions in practice – through the lens of enforcement, institutional behavior, and public legitimacy. All findings were synthesized with reference to the interplay between doctrinal, legal, and social factors, allowing for conclusions regarding the actual position of the rule of law within Ukraine's criminal justice system and the identification of pathways for its further development.

Results and Discussion

European Integration Challenges in Interpreting the Rule of Law

Prospective EU member states are required to meet a series of accession criteria. Over the past decades, however, the enlargement process has undergone significant transformation in response to historical shifts. Among the newer accession benchmarks, democracy and human rights have assumed a prominent position within EU policy-making and conditionality frameworks [11, p. III]. And yet, in the specific context of Ukraine's accession efforts, the imperative to strengthen the rule of law – arguably the cornerstone of the entire EU legal order – has not always received sufficient emphasis.

Nevertheless, the structural challenges and urgent need for reform in this domain are evident in empirical data. According to the World Justice Project (WJP), Ukraine ranked 88th out of 142 countries in the 2024 global Rule of Law Index [12]. This placement illustrates the scale of the difficulties Ukraine faces in fortifying its legal system and aligning with European standards. Simultaneously, it highlights the pressing need for coordinated efforts, both domestically and from the international community, to support Ukraine's rule of law reforms.

The WJP's analytical framework evaluates the rule of law through eight core factors, each addressing an essential component of a functioning legal system. These include:

– Constraints on Government Powers – assessing the extent to which state power is bound by law, including the roles of constitutional oversight and independent media (Ukraine scored 0.46);

- Absence of Corruption – examining transparency and integrity across branches of power and in law enforcement and the military (score: 0.34);
- Open Government – evaluating accessibility of public information and civic participation in governance (score: 0.56);
- Fundamental Rights – measuring adherence to human rights as articulated in the Universal Declaration of Human Rights (score: 0.59);
- Order and Security – gauging the effectiveness of the state in ensuring personal and property security (score: 0.62);
- Regulatory Enforcement – analyzing the fairness and effectiveness of law implementation (score: 0.43);
- Civil Justice – assessing access to justice, impartiality, and the efficiency of civil dispute resolution (score: 0.53);
- Criminal Justice – focusing on institutional capacity to prosecute crimes, ensure fair trials, and uphold due process (Ukraine's score here is particularly low: 0.37) [12].

While some commentators caution that such indices prioritize institutional effectiveness over citizen-level perceptions of justice [13], the WJP methodology provides a robust, multidimensional overview of systemic strengths and deficits. Its findings are critical for any informed discussion on Ukraine's integration readiness.

It is important to note that, on the one hand, Ukraine – as a sovereign state – has the prerogative to develop its own vision of the rule of law and establish internal criteria for its evaluation. Yet one must ask: why has Ukraine not yet articulated such a domestic conception? Although laws proclaim the rule of law as a principle derived from natural law, in practice it is often treated as a positivist norm. More fundamentally, Ukraine has voluntarily chosen the European path – a path that entails clear obligations, including respect for the values codified in Art. 2 of the Consolidated Treaty on European Union, notably the rule of law in its natural law conception.

Indeed, there exist multiple frameworks for evaluating the rule of law. The Venice Commission, for instance, identifies six core elements, while the WJP recognizes eight, each with further subcomponents. Further challenges emerge from inconsistent reporting methodologies and weak monitoring mechanisms. As Laurent Pech observes, the coherence and efficacy of EU rule-of-law tools are often undermined by inadequate accountability and oversight structures [14, pp. 10-11].

This is a valid critique – and worth extending. Even within the EU, member states diverge in how they interpret and implement the rule of law. Some,

particularly those with strong positivist traditions, do not fully embrace its natural law dimensions. Yet when viewed collectively, the EU affirms a shared understanding of the rule of law rooted in inherent values and principles rather than formal compliance alone.

Thus, while multiple assessment criteria exist, the underlying normative vision remains largely unified.

Implementation Challenges in Criminal Justice

For a considerable period, discussions on the rule of law have disproportionately focused on the judiciary. This emphasis is understandable, given that the most acute rule-of-law crises within the EU often relate to member states' backsliding on judicial independence [15, pp. 3-4]. Yet the concept of the rule of law cannot be reduced solely to the state of the judiciary. The principle must extend to the entire apparatus of state authority. In the Ukrainian context – especially in light of European integration processes – it is the criminal justice system that stands at the epicenter of rule-of-law discourse and demands critical scrutiny.

The eighth factor of the World Justice Project's Rule of Law Index, which directly evaluates the criminal justice system, is predicated on the notion that effective criminal justice is a foundational prerequisite for the rule of law. This includes not only the prosecution and punishment of criminal offenses but also the restoration of justice and the protection of the rights of victims. Alarmingly, among all evaluated components, Ukraine's score in this area remains one of the lowest, underscoring the urgent need for structural reform.

Any analysis of Ukraine's criminal justice system must adopt a comprehensive approach – one that goes beyond individual institutions and assesses their interaction as a whole. This includes the National Police, Security Service of Ukraine, State Bureau of Investigation, National Anti-Corruption Bureau, Bureau of Economic Security, as well as defense lawyers, the prosecutorial service, the judiciary, and penal institutions. Evaluation must extend beyond the formal existence of norms to include their practical application, consistency, and coherence with European standards.

Therefore, aligning Ukraine's criminal justice institutions with European rule-of-law standards requires an integrative methodology – one that bridges legal theory, institutional analysis, and empirical review of reform outcomes. It is not enough to adopt EU-compliant legislation; the rule of law must be internalized by the actors operating within the system and reflected in routine legal practice. Only through such an interdisciplinary and outcome-oriented approach can Ukraine move toward substantive convergence with the European legal space.

Deficit in Legal Understanding: International and Domestic Dimensions

Efforts to entrench the rule of law in Ukraine continue to encounter a host of conceptual and practical challenges – many of which have been observed not only by domestic scholars but also by European legal experts. Ana Knežević Bojović and Vesna Ćorić identify several systemic obstacles, including:

(a) conceptual ambiguity – uncertainty about what precisely the rule of law entails and where its boundaries lie;
(b) deficiencies in monitoring and accountability – EU mechanisms for assessing compliance often lack methodological rigor;
(c) imbalance in incentives and sanctions – reward and penalty systems meant to promote adherence are sometimes inconsistently applied;
(d) incoherence in policy and tools – there is a noticeable disconnect between the EU's internal and external approaches to promoting the rule of law [16].

On the domestic front, Serhii Holovatyi has highlighted four specific impediments undermining the operationalization of the rule of law in Ukraine:

(a) the current state of national legislation;
(b) the prevailing official legal doctrine;
(c) the quality of Ukrainian translations of European Court of Human Rights judgments; and
(d) the limitations of the contemporary legal academic discourse [17, p. 46].

It is worth emphasizing that, despite its status as a foundational concept of international legal order, the rule of law has in recent years become increasingly contested and fragmented in both theory and application [18, p. 3].

In the Ukrainian context, while the principle of the rule of law is formally enshrined in all key normative acts governing the criminal justice system – including the Constitution and the Criminal Procedure Code – none of these documents offers a clear, operational definition. The result is a legal landscape in which the rule of law is proclaimed as a guiding principle yet remains doctrinally and practically underdeveloped. This gap contributes to a lack of uniformity in interpretation and enforcement, often leading to confusion or even neglect of the principle in actual practice.

Some attempts at clarification have been made. Article 8 of the Criminal Procedure Code states that criminal proceedings must adhere to the rule

of law, which it defines as the recognition of the individual, their rights and freedoms, as the highest social value that determines the content and direction of state activity. However, this approach risks narrowing the principle to a vague affirmation of human rights, thereby neglecting its structural and institutional dimensions.

A similar issue emerges in the Constitutional Court of Ukraine's interpretation of Art. 8 of the Constitution. In its decision No. 15-рп/2004, the Court – drawing on a legal positivist methodology – described the rule of law as "the supremacy of law in society". While rhetorically appealing, this formulation is conceptually limited. It fails to capture the natural law underpinnings of the rule of law and instead collapses the principle into a general endorsement of legality – a problematic reduction, especially given the rule of law's function as a normative constraint on state authority [19, p. 40].

Notably, this ambiguity is not unique to Ukraine. International legal instruments – including those of the European Union – often invoke the rule of law without defining it in precise terms. Scholars have argued that the concept is inherently dynamic and, as such, resists codification in a single definition. Rather, it functions as a "living principle" embedded in constitutional traditions, judicial interpretations, and evolving standards of democratic governance [10, p. 2].

This raises a broader philosophical question: must the rule of law be strictly defined at all? In Ukraine, as elsewhere, the English idiom "rule of law" has been variously translated as *«верховенство права», «правовладдя», or «панування права»,* among other formulations. The proliferation of competing terms has sparked considerable debate. But does nomenclature determine value? One might well ask: does a painting's name define its cultural or artistic significance? Whether we call it Mona Lisa, La Gioconda, or Portrait of Lisa Gherardini, its substance remains unchanged. Why then should terminological differences undermine the normative power of the rule of law?

To its credit, the Venice Commission has made considerable strides in clarifying the concept. At its 86th plenary session in 2011, the Commission adopted its landmark Report on the Rule of Law, which acknowledged the interpretive difficulties surrounding the principle while affirming its foundational role in safeguarding rights, democracy, and legal order across Council of Europe member states. The report identified six key elements of the rule of law:

(a) legality, including transparent, accountable, and democratic lawmaking;

(b) legal certainty;
(c) prohibition of arbitrariness;
(d) access to justice before independent and impartial courts, including judicial review of administrative acts;
(e) respect for human rights; and
(f) non-discrimination and equality before the law [20].

This work was further expanded in 2016 with the adoption of the Rule of Law Checklist, developed at the 106th plenary session of the Venice Commission [21]. Designed as a practical tool for legislatures, governments, civil society actors, and international organizations, the checklist provides a nuanced and context-sensitive framework for evaluating rule-of-law compliance. Crucially, it cautions against over-formalized or mechanical application of its criteria, urging instead a holistic and flexible approach to assessment.

Theoretical and Practical Contradictions in the Understanding of the Rule of Law

Despite significant developments in the interpretation of the rule of law – both in Ukraine and internationally – deep conceptual inconsistencies remain. These divergences persist not only across legal scholarship and political discourse, but also within legislative and judicial practice. In his work "The Rule of Law Does Not Work", Serhii Holovatyi offers a detailed critique of Ukrainian approaches to this concept, arguing that they are still burdened by the remnants of Soviet-era legal positivism. To overcome this barrier, he calls for a return to first principles, emphasizing that meaningful legal education in Ukraine cannot continue without a thorough engagement with A.V. Dicey's classical work on the rule of law. Without a grounding in Dicey's conceptual framework, he suggests, Ukrainian legal science and judicial practice will remain structurally incapable of realizing the rule of law as a living norm [22, pp. 163-164].

This view is both compelling and timely. Indeed, while Dicey's doctrine was forged in the context of British constitutionalism, its influence has permeated modern European legal thought and underlies one of the Union's fundamental values. Yet there remains a blind spot in Ukrainian legal discourse – one that even proponents of natural law seem to overlook: the question of what kind of category the rule of law actually is. Is it a value? A doctrine? A principle? An idiom? Or something else entirely?

In Ukraine, scholarly and legislative attention has overwhelmingly focused on attempts to define the rule of law. Paradoxically, this is something the broader European legal community has largely refrained from doing. Many academic works highlight the conceptual ambiguity of the term,

noting divergent interpretations among key institutions. For example, in its decision No. 15-рп/2004, the Constitutional Court of Ukraine offered a formal definition. Meanwhile, the European Court of Human Rights has consistently avoided committing to a single authoritative interpretation, favoring instead a case-by-case elaboration. The Venice Commission, although refraining from issuing a definitive definition in its 2011 Report, has made substantial contributions to clarifying the conceptual landscape.

But perhaps the more fundamental issue lies not in definitional ambiguity, but in categorical confusion. Since the Ukrainian Constitution explicitly designates the rule of law as a principle, legal scholars often treat it exclusively as such – without exploring whether it might also function as a value, an idea, or even a constitutional doctrine. This formal classification, while legally binding, should not preclude deeper theoretical inquiry.

What, after all, is a principle? In its broadest sense, a principle is a foundational idea – a normative compass that guides systems of knowledge, conduct, or governance. In legal science, principles serve as structural anchors: they direct interpretation, shape institutional behavior, and set normative baselines. In this respect, they can act both as filters – standards for evaluating the legitimacy of laws – and as conduits, bridging the abstract with the practical.

Yet can we truly say that the rule of law in Ukraine functions in this way? Is it the starting point for every procedural decision made by investigators, prosecutors, and judges? Viktor Nazarov has observed that, in criminal proceedings, the principle of the rule of law remains largely unrecognized, uninternalized, and unused in the day-to-day work of investigative authorities [23, p. 137]. This diagnosis, though stark, captures the disjunction between legal aspiration and institutional reality.

One particularly telling symptom of this conceptual deficit is the recurring tendency to juxtapose the rule of law with the principle of legality, as though they were commensurable. This comparison – which is common in academic and legislative texts – equates the rule of law with one of its own subcomponents. It places it on the same level as more technical procedural guarantees (e.g. the requirement to record court hearings or specify the language of proceedings). The result is a flattening of the conceptual hierarchy: a failure to recognize that legality is but one element within a much broader and richer framework.

The Venice Commission, in its 2011 Report, explicitly stated that legality is one of several constituent elements of the rule of law. In this sense, to compare the two as equals is akin to comparing a single brushstroke to an entire painting. The rule of law is the composite picture; legality, one of the

pigments. As things stand, Ukraine treats the rule of law more as a goal to be reached than as a foundation from which to begin.

Interestingly, concerns about conflating the rule of law with ordinary legal principles were raised in European legal discourse long before the Venice Commission's formal intervention. Already in 2002, Päivi Leino insightfully noted that the rule of law should not be seen as an isolated principle, but as a "umbrella principle" – a normative structure encompassing other foundational norms [29].

And yet, the integrative approach to interpretation – prevalent in Ukraine – does not appear to engage with the categorical status of the rule of law. Under this approach, scholars attempt to synthesize the terms law and rule (or supremacy) into a single interpretive framework. But they often stop short of questioning the designation of the rule of law as a "principle", even when the logic of their own analysis points to a broader conceptual function [30, p. 28].

Conclusion

In my view, the core problem lies in how the rule of law is perceived – not as a foundation from which the criminal justice system operates, but as a distant goal toward which it aspires. This misperception has two primary roots. First is formalism, or a kind of normative templating, whereby laws are drafted according to entrenched formulas that reflexively include a list of "general provisions" and "principles" – not necessarily because these are substantively integrated into the legal order, but simply because that's how it's always done. Principles appear in the law not as anchors of legal reasoning, but as ornamental prefatory clauses.

Second, and more profoundly, is the enduring influence of Soviet legal positivism on Ukraine's legal science. Within this framework, once something is codified – once the law declares that the rule of law is a principle – then that declaration itself becomes the starting and ending point for scholarly interpretation. The principle is treated as such, but rarely examined as such.

A review of contemporary academic literature reveals a consistent pattern. Most scholarly works address either the practical challenges of implementing the rule of law in particular legal fields, or the urgent need to define the term itself – typically presenting it as a fundamental principle upon which the legal system should be built. These studies often conclude that Ukraine lacks meaningful implementation of the rule of law, and their definitional efforts, while well-intentioned, tend to narrow the conceptual space rather than expand it. Scholars are united by a shared desire for the rule of law to "function" effectively. Yet there is comparatively little attention

given to the methodological precondition for that functioning: namely, the creation of the rule of law as a lived and institutionalized value.

Over the more than thirty years since Ukraine gained independence, legal discourse has largely bypassed this formative dimension. What is needed is not only the identification of existing gaps, but the development of a strategic framework – a legal and institutional roadmap – for cultivating the rule of law as a foundational ideal. Such a strategy would need to encompass legislative reform, the strengthening of judicial independence, and, crucially, the cultivation of legal consciousness among both legal professionals and the general public.

The debate on the rule of law in Ukraine must therefore expand its analytical horizon. It must move beyond positivist legacies and embrace the natural law tradition at the heart of European legal culture. More importantly, the focus must shift – from defining the rule of law, or lamenting its absence, to laying the groundwork for its sustained existence. Without such a foundation, efforts to "construct a skyscraper" of justice, democracy, and accountability will remain structurally unsound – no matter how polished the legal facade.

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Oleksandr Yu. Dudchenko
Ph.D. in Law, Associate Professor
Associate Professor of the Department of Criminal Procedure
Yaroslav Mudryi National Law University
61024, 77 Hryhoriia Skovorody Str., Kharkiv, Ukraine
e-mail: o.yu.dudchenko@nlu.edu.ua
ORCID 0000-0002-4733-2139

Олександр Юрійович Дудченко
кандидат юридичних наук, доцент
доцент кафедри кримінального процесу
Національний юридичний університет імені Ярослава Мудрого
61024, вул. Григорія Сковороди, 77, Харків, Україна
e-mail: o.yu.dudchenko@nlu.edu.ua
ORCID 0000-0002-4733-2139

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