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ЕЖЕМЕСЯЧНЫЙ НАУЧНЫЙ ЖУРНАЛ

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თანამშრომლობითა და მისი პატრონაჟით

ЕЖЕМЕСЯЧНЫЙ НАУЧНЫЙ ЖУРНАЛ
ТБИЛИСИ - НЬЮ-ЙОРК

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3. Submitted material must include a coverage of a topical subject, research methods, results, and review.

Authors of the scientific-research works must indicate the number of experimental biological species drawn in, list the employed methods of anesthetization and soporific means used during acute tests.

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3. სტატიაში საჭიროა გაშუქდეს: საკითხის აქტუალობა; კვლევის მიზანი; საკვლევი მასალა და გამოყენებული მეთოდები; მიღებული შედეგები და მათი განსჯა. ექსპერიმენტული ხასიათის სტატიების წარმოდგენისას ავტორებმა უნდა მიუთითონ საექსპერიმენტო ცხოველების სახეობა და რაოდენობა; გაუტკივარებისა და დაძინების მეთოდები (მწვავე ცდების პირობებში).

4. სტატიას თან უნდა ახლდეს რეზიუმე ინგლისურ, რუსულ და ქართულ ენებზე არანაკლებ ნახევარი გვერდის მოცულობისა (სათაურის, ავტორების, დაწესებულების მითითებით და უნდა შეიცავდეს შემდეგ განყოფილებებს: მიზანი, მასალა და მეთოდები, შედეგები და დასკვნები; ტექსტუალური ნაწილი არ უნდა იყოს 15 სტრიქონზე ნაკლები) და საკვანძო სიტყვების ჩამონათვალი (key words).

5. ცხრილები საჭიროა წარმოადგინოთ ნაბეჭდი სახით. ყველა ციფრული, შემაჯამებელი და პროცენტული მონაცემები უნდა შეესაბამებოდეს ტექსტში მოყვანილს.

6. ფოტოსურათები უნდა იყოს კონტრასტული; სურათები, ნახაზები, დიაგრამები - დასათაურებული, დანომრილი და სათანადო ადგილას ჩასმული. რენტგენოგრამების ფოტოასლები წარმოადგინეთ პოზიტიური გამოსახულებით **tiff** ფორმატში. მიკროფოტოსურათების წარწერებში საჭიროა მიუთითოთ ოკულარის ან ობიექტივის საშუალებით გადიდების ხარისხი, ანათალების შედეგის ან იმპრეგნაციის მეთოდი და აღნიშნოთ სურათის ზედა და ქვედა ნაწილები.

7. სამამულო ავტორების გვარები სტატიაში აღინიშნება ინიციალების თანდართვით, უცხოურისა – უცხოური ტრანსკრიპციით.

8. სტატიას თან უნდა ახლდეს ავტორის მიერ გამოყენებული სამამულო და უცხოური შრომების ბიბლიოგრაფიული სია (ბოლო 5-8 წლის სიღრმით). ანბანური წყობით წარმოდგენილ ბიბლიოგრაფიულ სიაში მიუთითეთ ჯერ სამამულო, შემდეგ უცხოელი ავტორები (გვარი, ინიციალები, სტატიის სათაური, ჟურნალის დასახელება, გამოცემის ადგილი, წელი, ჟურნალის №, პირველი და ბოლო გვერდები). მონოგრაფიის შემთხვევაში მიუთითეთ გამოცემის წელი, ადგილი და გვერდების საერთო რაოდენობა. ტექსტში კვადრატულ ფხიხლებში უნდა მიუთითოთ ავტორის შესაბამისი N ლიტერატურის სიის მიხედვით. მიზანშეწონილია, რომ ციტირებული წყაროების უმეტესი ნაწილი იყოს 5-6 წლის სიღრმის.

9. სტატიას თან უნდა ახლდეს: ა) დაწესებულების ან სამეცნიერო ხელმძღვანელის წარდგინება, დამოწმებული ხელმოწერითა და ბეჭდით; ბ) დარგის სპეციალისტის დამოწმებული რეცენზია, რომელშიც მითითებული იქნება საკითხის აქტუალობა, მასალის საკმაობა, მეთოდის სანდოობა, შედეგების სამეცნიერო-პრაქტიკული მნიშვნელობა.

10. სტატიის ბოლოს საჭიროა ყველა ავტორის ხელმოწერა, რომელთა რაოდენობა არ უნდა აღემატებოდეს 5-ს.

11. რედაქცია იტოვებს უფლებას შეასწოროს სტატია. ტექსტზე მუშაობა და შეჯერება ხდება საავტორო ორიგინალის მიხედვით.

12. დაუშვებელია რედაქციაში ისეთი სტატიის წარდგენა, რომელიც დასაბეჭდად წარდგენილი იყო სხვა რედაქციაში ან გამოქვეყნებული იყო სხვა გამოცემებში.

აღნიშნული წესების დარღვევის შემთხვევაში სტატიები არ განიხილება.

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THE BOUNDARIES OF GENDER TOLERANCE IN THE MODERN SOCIETY AND LEGAL STATE (REVIEW)

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For several decades, personal human rights have taken a prominent place in legal science. However, by virtue of their specificity, such rights have always had a particular perception on the part of the legislator, as well as society and its moral and ethical values. The development of gender identity should not affect the ability to enjoy such a fundamental human right as state recognition. The issue of normative consolidation of basic human rights arising from gender self-identification of an individual is currently relevant to modern democratic states, whose main focus in development are human beings, their rights and freedoms. This is related not only to the interests of an individual, but it is also a condition for the progressive development of the modern state itself, since appropriate regulatory regulation of emerging social relations is an effective tool for the state's response to changes in traditional perceptions of society and transformation of its values.

The social concept of «gender» in the modern state

*Breaking a taboo always stirs quick emotions
although attempts to rationalize may follow.
The forces of nature, however, know nothing
of this taboo, and facts remain facts.*

H. Benjamin¹

Gender differentiation between people defined as «man» and «woman» occurs at different levels. In fact, there are seven aspects of sex: chromosomal, gonadal (gender of the sex glands), anatomical, hormonal sex, as well as psychological, erotic-emotional and social sex. Unlike the past society, in which the existence of intermediate categories – often referred to as «hermaphrodites» – still seemed self-evident, a strictly binary concept had spread since the beginning of the 19th century. It declared the single perfect congruent orientation of all seven levels of gender as «male» or «female», and any divergence from it was considered deviant and undesirable [12].

Based on the «Chicago Consensus 2005» previously used medical terms such as Hermaphrodite or Pseudo-hermaphrodite, who were perceived as stigmatizing by the victims, have been replaced by the neutral term DSD – the disorder of sex development. Since then, medicine has used DSD as a generic term for a large number of diagnoses with different causes, development processes and manifestations that apply to persons who cannot clearly identify female or male to become, genetically and/ or anatomically or hormonally [12].

The 11th Revision of ICD is presented to the World Health Assembly in May 2019 for adoption and to replace all earlier Revisions from 1 January 2022. The new ICD-11 uses the term Gender incongruence to replace all species of Gender dysphoria and Gender identity disorders that have been removed from the list of mental and behavioural disorders and transferred to the section «Conditions related to sexual health».

Gender incongruence of Adolescence and Adulthood is characterised by a marked and persistent incongruence between an

individual's experienced gender and the assigned sex, which often leads to a desire to 'transition', in order to live and be accepted as a person of the experienced gender, through hormonal treatment, surgery or other health care services to make the individual's body align, as much as desired and to the extent possible, with the experienced gender [38]. The incongruence of childhood must have persisted for about 2 years [39].

However, the more humanity evolves and develops, the more conflicts between science and morality are inherently incompatible [43]. We believe that the conflict arises not only between science and morality, but also between morality and genetics (in particular, the recognition of equal rights of intersexual people²), morality and the right to respect for privacy (for example, regarding the issue of sexual rights such as prostitution, same-sex marriage, as well as the right to gender identity).

At present, there is a conflict between sex and gender, namely, between biological sex and social gender in the modern society.

As to the issue of sex, it should be noted that it is socially defined and is the result of the interaction of factors and processes that operate at different biological and psychosexual levels. These include the anatomical and hormonal constitution of a person, the psychological development and resulting identity, as well as social biography (upbringing). Sex also refers to the role of man in society. As a rule, it corresponds to the biological sex, yet sometimes conflicting with it. The sex of a child's upbringing describes the role of a child in the family and society. When a person's sex is registered in the Civil Status Register, the respective sex is recorded administratively and used for other statutory purposes as a distinguishing feature. So far, this has hindered the adoption of intersexual positions in many practical life situations [16].

At present, gender debates have become too dangerous to discuss the differences between what is «real» and what is our social construction. This is too polarized an issue to allow it to develop further and safely support the moral and psychological aspects of children or adults. However, there is a category of people who have repeatedly asked to stop engaging in gender debates – a person's intersex or intersexual people (intersexuality is a simultaneous presence of both male and female characteristics in an individual; intersex is a bisexual person [45]).

Such separation of intersex persons from gender discussions is due to the fact that their gender identity is primarily characterized not by social, psychological (though not excluded) or erotic-emotional sex, but by genetic (anatomical) one. H. Benjamin points out that intersexual people exist both in the body and in the mind. And their disapproval affects far more morality than science [6] (as opposed to transgender or transsexual people).

Medical or social categorization of a person as belonging to one of the two genders or not related to either of them make a neutral diagnosis but affect the self-perception and identity of

¹Benjamin H. *The transsexual phenomenon* New-York: The Julian Press, Inc. Publishers; 1966.

²The conceptual clarification of the medical definition of intersexuality is an ambiguity in the classification of an individual as such, which refers to the male or female sex, as the distinctive features reflect the atypical development of the chromosome, anatomical or hormonal sex. These sexual variants may appear during pregnancy, immediately after birth or at a later age.

such a person. Conflict can arise if a person with an intersex phenotype is identified as belonging to a gender that person does not want or cannot accept. And conversely, conflict is also possible if a person is classified as intersex on the basis of physical characteristics, despite the fact that he is subjectively uniquely related to a particular sex and does not consider physical differences to be significant [16].

In this respect, it may be appropriate to group all intersex persons into one new collective category, such as the «third gender» or «X» gender, parallel to female and male. Such a classification would be incorrect because of the large diversity of intersex people and the fact that many identify themselves as women or men, while others identify themselves as both male and female – that is, the third gender itself. Although there is a group of people who do not refer to either the male, female or third gender, while identifying themselves as a neutral gender that does not belong to any of the above (though, we note that this problem is thus related to the problem of only psychological dysfunction, not physiological). Hence, the selection of gender for persons with Gender Incongruence should, in the presence of anatomical features, be exclusively dispositive at the state level.

Consequently, it is about gender identity. It is a social construction, while sex is a concept that exists whether we perceive it as real or not [37].

The German Ethics Council also defines sexual identity as a general term for self-categorization of people according to their body, hormonal abilities, feelings and biography (including how they were brought up as a child). Sexual identity does not necessarily correspond to a person's physical sex and may conflict with it [16].

Thus, we consider it necessary to highlight in more detail the individual aspects of gender identity in the light of European human rights guarantees.

Therefore, the «real instrument» that must be interpreted in the light of current conditions is the Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention) [35]. The European Court of Human Rights also defines gender identity and personal development as a fundamental aspect of the right to respect for privacy guaranteed by Article 8 (clause 1) of the European Convention [1], where freedom to determine one's sexual identity is one of the most fundamental elements of this article in general, and the definition of personal autonomy in particular [32]. However, the court interpretation of the rules is general and does not reveal the exact scope of the State's obligations in this area [41].

Hence, private life is a broad term that is beyond exhaustive definition. It includes not only the physical and psychological inviolability of a person, but sometimes it can also cover aspects of his physical and social identity. The right to respect for privacy under Article 8 of the European Convention fully extends to gender identity as a component of personal identity. This applies to all persons. Elements such as gender identification, name, sexual orientation and sexual life are within the personal sphere that is protected by this article [33]. The European Court of Human Rights also provides that serious interference with privacy can occur when the law of a country conflicts with an important aspect of an individual [7], since respect for fundamental human rights cannot meet the requirement that a person has concealed any aspect of his or her personality.

Particular attention should be paid to the opinion of the judges in the case «X and Others v. Austria», which concerned the violation of the right to respect for privacy and discrimination on the basis of gender, where priority to the adoption of a child

was given to the unmarried mixed-sex couple. «The limits of the evolutive interpretation: «present-day conditions» or those of the future». The point of the evolutive interpretation, as conceived by the Court, is to accompany and even channel change; it is not to anticipate change, still less to try to impose it. Without in any way ruling out the possibility that the situation in Europe in the future will evolve in the direction apparently wished for by the majority, this does not seem to be the case, as we have seen, at present. We therefore believe that the majority went beyond the usual limits of the evolutive method of interpretation [40].

At present, most discussion is about legal approval of the change of sex in official documents of a person. The case law of the European Court of Human Rights states that the practice of a general register of civil status acts is to use only biological criteria of sex, namely: chromosomal, gonadal and sexual. The fact that it subsequently becomes apparent that a person's psychological gender is incompatible with these biological criteria does not mean that initially the entry in the acts of civil status is a factual mistake. Only in the case of a clerical error, or when the explicit sex of the child has been incorrectly identified, or if there is a biological criterion for intersexuality, that is, when biological criteria do not match, will changes to the original record be considered and then medical evidence should be provided that the original entry was incorrect. However, there is no error in the birth record of a person who has undergone medical and / or surgical treatment to allow that person to assume the role of the opposite sex [21].

In the case «S.V. v. Italy» the European Court of Justice has stated that the refusal to grant a transgender person's application for a change of name before completing the process of transition to sex through surgery was based on purely formal arguments that did not take into account the particular circumstances of a person. In particular, the authorities did not take into account the fact that a person had been in the process of transition to sex for several years and that his appearance and social identity had long been female. In the instant case, the Court did not see what reasons in the public interest could justify a delay of more than two years and half in changing the name given in an applicant's official documents in order to reflect the reality of her social situation, which, moreover, was recognized by the national court. The person was given 10,000 euros in compensation [32].

The arbitrary change in gender has its inherent and negative aspects. For example, the case of 2020 in the Russian Federation is noteworthy. Thus, according to the Office of the Federal Service of Bailiffs in the Kursk region, the debtor through alimony IN SIZE of 800,000 rubles (about 11,500 euros) was wanted. As it turned out, the man changed his gender and his passport in order to avoid alimony [47]. A similar case occurred in Moscow in 2013 [48].

However, such neglect of parental responsibilities cannot be acknowledged by gender reassignment of abuse of the right to gender identity. Such a question depends on the other moral and ethical qualities inherent in an individual. In this case, changing the sex does not automatically entail changing the legal status of a person.

In our study, we consider it necessary to pay attention to the positive aspect of modern democratic states that have deviated from the binary concept of gender. Thus, in Germany since 2013, in case the children «cannot be assigned to female or male», they must be registered in the birth register without gender [23]. In October 2017, referring to the decision of the Supreme Court, the Federal Constitutional Court of Germany declared unconstitutional a norm according to which, at birth registration, in the column «gender» it reflects only «female» and «male» [25]. In August 2018, the Cabinet of Ministers of Germany adopted a

bill amending the Law «On Civil Status», according to which, if upon the birth of a child, it could not be attributed to either a male or female gender, then legal documents can be filled in the column «third gender», instead of leaving the columns unfilled following the permission made in 2013 [8].

The Law on the Legal Status of Persons with Sexual Disabilities in Iceland provides for passive gender registration, marked «X» [26].

In 2018, the court in the Netherlands, in dealing with the case of protection of intersexual rights, stated in its decision that due to «social and legal changes it is time to recognize the third gender» [4]. In June 2018, the Austrian court approved a third gender identity in legal acts [5]. It is believed that such gender legalization was facilitated by the recognition of the famous Belgian model Hannah Gabi Odell in her gender affiliation with intersexual people, as she had said, to «break the taboo» [28].

The problem of protecting gender-diverse individuals has already been the subject of our scientific research, where we have come to the conclusion that personal human rights, such as the right to gender identity, have already been realized. However, sometimes the legislator does not want to take responsibility for developing a mechanism for their practical implementation, due to the fact that the legalization of such rights at the legislative level of a country requires a certain leap in the public consciousness, the size of which depends on the mentality of the people of each individual country [42]. It is also inadmissible to recognize human rights in the rule of law only after they have been found guilty by a court. Sometimes, in exceptional circumstances, such a state of affairs can be justified in the constant development of social relations, when the law simply does not have time to adjust to such relations. Although in most states there is a legislative provision that, in cases provided by law, allows a person to change their gender in official documents upon application, we consider it a positive manifestation of democratic states that most of them have officially recognized the third gender.

One of these countries was France, where as early as 2012 it was proposed not to label women with different names depending on their marital status as appropriate, but to use a neutral designation [14]. However, the country «slowed down» this process [15]. We believe that this may be due to the French policy aimed at excluding gender-neutral language in the official texts [3].

The Netherlands has gone much further in this regard. In particular, in various institutions of the country, official advertisements do not distinguish between men and women at all, but use common terms to define and refer to any gender [13]. For example, instead of the official address «ladies and gentlemen», phrases «dear Amsterdammers», «dear visitors», etc. are used.

Manifestations of gender identity in various aspects of public life

*«If I didn't define myself for myself,
I would be crunched into other people's
fantasies for me and eaten alive»
A.G. Lorde*

The problems of the legal protection of human rights must be recognized by the world community, and such recognition can be achieved by the state and society in which they live, provided that their security is real in the context of human progress [46].

In recent years, there has been an increasing spread of «gender neutrality» policies in the international arena in various aspects of public life. However, whatever psychological or emotional-erotic sex is not inherent in the DSD person (Since 2022 according to ICD-11 – Gender Incongruence), in particular, the tran-

sitional person (transgender), both male and female sexes still have features that are not medically and surgically eliminated.

For example, this issue refers to the category of men's and women's sports. The issue under consideration came as a result of a lawsuit filed by intersexual runner Caster Semenya against the International Association of Athletics Federation in the Court of Arbitration. Under the new rules for women established by the Association, some runners were forced to lower their testosterone levels to be allowed to compete. Such DSD rules require that Caster Semenya and other athletes with different sexual development artificially lower their testosterone levels to participate in competitions, in particular in which Caster Semenya has won many medals [29]. The Court of Arbitration for Sport dismissed C. Semenya's claim for the actions of such rules of the Association for women.

In the court's ruling on the legality of testosterone levels for DSD athletes, individual trans-lobby groups require that this should be applied to all athletes, and that the biological sex should be replaced by an «athletic gender». For example, J. Harper argues that the sex assigned at birth does not determine the athletic potential of future adults and should not be the sole criterion for the division of athletes into male and female categories. The author states that gender identity alone should not be used to determine the sport category appropriate for that person. As an alternative to the strict use of a sexually identifiable or gender-specific athlete, an athletic gender may be used to separate gender in other arenas from the appropriate category of competition for athletes. The athletic gender can be spoken about in much the same way as other aspects of gender in the sense that it is one of its aspects – it is separate and potentially either identical or different from a legal or sex-specific gender. If fair competition is assessed, then gender should be determined using a scientifically sound metrics, based on performance. If it is recognized that athletic gender differs from social gender, then it follows that the placement of an athlete in the sport category of both men and women does not affect their self-identifying social gender and, therefore, the way that an athlete lives separately from each other, from sport. Thus, the concept of athletic gender can be a powerful idea that resolves many of the conflicts mentioned earlier. For example, the argument that intersexual athletes or transgenders are bound to be stigmatized if they are unable to compete in the female category due to high testosterone levels loses its validity if the athletic gender is clearly different from the social gender. The concept of athletic gender can also be an effective contraindication for passing the required tests. If athletes can be divided on the basis of a standard physiological test, such as testosterone levels, then there is no longer any need to resort to an Allen test-based methodology. This suggests that testosterone levels are the single and best factor in sports performance [18]. Although some scholars believe this statement is false and unscientific. For example, A. Lee points out that trans activists never confirm their position with evidence by appealing to calm, rational negotiations with informed people. In particular: 1) what about testosterone during the period of growth and maturation? 2) how about cellular male muscle memory? 3) what about the obvious physical and biomechanical differences between men and women? There are many very compelling reasons why sport has always been divided into gender (non-gender) categories for justice [24].

Unfortunately, some trans-activist organizations do not want to be aware of such differences. For example, the introduction of gender neutral restrooms, i.e. shared restrooms for boys, girls and DSDs, has been widely publicized in the UK. This deci-

sion was made contrary to the opinions of parents and teachers, as the result of it the girls were skipping school, «because of fear of further ridicule by the boys». The issue was also raised because a representative of the Transgender Trend parental election group later stated that «trans-activist» organizations misinformed schools that they were violating equality laws if they did not make the toilets unisex. It was noted that there are clear exceptions in the current equality laws which mean that having same-sex (provided for each sex) restrooms is absolutely legal [27]. Following another «splash» of transgender workers, British schools have also begun to introduce gender neutral uniforms, including skirts for boys [22].

Gender education has also influenced another private school, St. Paul's, where in 2017 students were allowed to use names and wear the opposite sex uniform in case they determined their gender. The former head of the private school says some students are transgender just to be cool and «cause turbulence» [31]. We believe that this tendency may have a negative impact on the psychological stability of other students who, in virtue of their age, do not realize the difference and see no boundaries between psychological gender and self-integration into society.

Gender issues have also touched the business sector. Thus, the Victoria's Secret global brand, which annually broadcasts its fashion shows around the world, has been criticized for not including «plus» or transgender models, as the fact that the company is a leader in its industry, it must at least try to keep up with the times and show some support for diversity. In 2017, Ed Razek, the marketing executive of the parent company, was interviewed by Vogue, stating that transgender individuals will not be involved in the show, as traditional beauty standards are a marketing strategy for the company and its focus is specialized («We market to who we sell to, and we don't market to the whole world») [30]. The result of this interview was a call from trans activists to publicly boycott the purchase of branded goods as well as the resignation of manager E. Razek [19].

We agree with the view that social life is regulated both by law and different types of social rules. In many areas, social self-regulation can produce better results than legal norms [41].

However, despite the somewhat aggressive tactics of individual trans groups in promoting gender equality in all aspects of public life, there are positive developments in the dissemination of gender-neutral language in the international arena.

Thus, we can see an increasing spread of a «gender neutrality» policy. For example, the introduction of gender-neutral languages is positive. Yet, in 2008, the European Parliament adopted a Gender-neutral language recommendation in the European Parliament [10], which provided for the use of gender-neutral common phrases to eliminate discrimination. In 2018, this document was updated and supplemented, in particular defining the concept of gender-neutral language, as well as another objective of implementing such a language policy by states recognizing the reduction of gender stereotypes, the impetus for social change and the achievement of gender equality [11]. In addition, in February 2019, the European Commission adopted the «English Style Guide», where the section «Inclusive Languages» envisages the use of gender-neutral language for men and women, as well as for LGBT people [9].

However, few countries recognize such language policy. One of these countries is France, which suggests not to label women with different names depending on their marital status as appropriate, but to use a neutral designation [14].

Besides, in 2016, the House of Commons of Canada overwhelmingly passed a private member's bill that would alter the

national anthem by replacing «in all thy sons command» with «in all of us command» as part of a push to strike gendered language from O Canada [34].

This gender-based tolerance has also affected the film industry. The Berlin International Film Festival has opted to make its acting awards gender-neutral, meaning the prizes for Best Actor and Best Actress will be condensed into a Silver Bear for Best Leading Performance. And the supporting awards will become a Silver Bear for Best Supporting Performance [17].

In 2019, the Merriam-Webster dictionary added «they» as a pronoun for «a single person whose gender identity is not two-fold» [36]. The gender-neutral pronoun «hen» was also introduced by the official Swedish dictionary [2].

Ukraine is moving in the opposite direction, where in 2019 new rules of the Ukrainian spelling were adopted, which, on the contrary, determine the formation of nouns from masculine nouns to identify women (*авторка, редакторка, майстриня, патронеса*) [44,49].

P. Jakiela and O. Ozier argue for a strong negative link between gender languages and women's participation in the workforce. Such results are consistent with research in psychology, linguistics, and anthropology, suggesting that languages form thinking patterns in a subtle and subconscious way. Languages are an important part of our cultural heritage, and it would be inappropriate to assume that some languages are detrimental to women's development or rights. However, languages develop over time; the direction of their evolution is determined both by individual choices (for example, whether to use pronouns such as «he» or «she»), and gender-neutral alternatives such as «they») and conscious decisions by public authorities and other thought leaders (such as major newspapers and magazines). As a result, people have to think about the social implications of their language choices, because the nature of the language we speak shapes the way we think as well as the way our children will think in the future [20].

Thus, the recognition of gender neutrality as one of the stages for further recognition of human rights of the fourth generation has long been widely known in the international community (although it has an advisory character). However, sometimes the legislator does not want to take responsibility for developing a mechanism for the practical realization of individual human rights of the fourth generation, which is explained by the fact that the legalization of such rights at the legislative level of a country requires significant changes in the social consciousness, the extent of which depends on the mentality of the people of each country. As for Ukraine, its own established mentality casts doubt on its further development in this direction (in particular, it concerns the legalization of LGBT rights, which is now quite relevant in the territory of European countries).

Conclusion. Summarizing our research, we note that the legislation of most democratic states adapts to the requirements of the present, in particular in terms of recognizing the gender identity of a person through the legislative enshrining of the third gender in official documents. Thus, individuals with a Gender incongruence can finally emerge from the shadows by self-identifying themselves in society as full members.

These positive measures have mostly been interfered with by intersexual people, who also differ in their unwillingness to engage in global gender discussions between society and transgender and transsexual representatives. Such passivity of intersexuals has shown a real result in the development of a society whose traditional ideas are «ready» for their acceptance into society as full members with the gender of men and women.

However, some trans-activist groups believe that this is not sufficient to reject all rules of gender tolerance and ethics. The latter do not take into account the fact that society also needs to adapt to the changes that are currently taking place in the established traditions of the world. This is especially true of the socialization of persons whose psychological gender differs from the physiological one. It takes time to reach the true goal, namely, the equality of male, female and «X» gender, while preserving the moral values of humanity.

Based on a case law study of the European Court of Human Rights, we state that components such as gender identification, first name, sexual orientation and sexual life belong to a person's private life. Violation in this area by the state most often occurs in relation to the legal recognition of gender identification of transitional persons who are at the intermediate stage between the initial phase and the absolute transition. This may refer to both the lack of legislation in the absence of appropriate legal regulation of the issue and the categorical attitude of the authorities to this issue if the law submits its decision to such bodies.

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SUMMARY

THE BOUNDARIES OF GENDER TOLERANCE IN THE MODERN SOCIETY AND LEGAL STATE (REVIEW)

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The paper highlights the features of differentiation of the following concepts: «sex», «gender», DSD and Gender incongruence. Such criteria of a person's sex as psychological and social gender in the aspect of a person's right to gender self-identification are distinguished. The case law of the European Court of Human Rights on guaranteeing the right to gender identity is under study. The second part deals with the international experience of gender policy outcomes in various aspects of public life, in particular sports, education and business. Emphasis is placed on the positive aspects of gender-neutral (inclusive) language in the world as a key feature of a gender-tolerant democratic state.

Keywords: gender, sex, intersex, gender neutrality, gender language.

РЕЗЮМЕ

ГРАНИЦЫ ГЕНДЕРНОЙ ТОЛЕРАНТНОСТИ В СОВРЕМЕННОМ ОБЩЕСТВЕ И ПРАВОВОМ ГОСУДАРСТВЕ (ОБЗОР)

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В статье освещены особенности разграничения следующих понятий: «пол», «гендер», расстройство полового развития и гендерное несоответствие. Выделены такие критерии пола человека, как психологический и социальный пол в аспекте права человека на гендерную самоидентификацию. Изучено прецедентное право Европейского суда по правам человека о гарантиях права на гендерную идентичность. Проанализирован международный опыт достижения результатов гендерной политики в различных сферах общественной жизни, в частности в спорте, образовании и бизнесе. Делается акцент на позитивные аспекты гендерно-нейтрального (инклюзивного) языка в мире как на ключевую особенность гендерно-толерантного демократического государства.

რეზიუმე

გენდერული ტოლერანტობის საზღვრები თანამედროვე საზოგადოებაში და იურიდიულ სახელმწიფოში

ვ.ზაბოროვსკი, რ.ფრიდმანსკი, ვ.მანზიუკი, ვ.ვაშკოვიჩი, ა.სტოიკა

უჯგოროდის ეროვნული უნივერსიტეტი, უკრაინა

სტატიაში საზგასმულია შემდეგი ცნებების დიფერენცირების თავისებურებები: "გენდერი", "სქესი", სექსუალური განვითარების დარღვევა და გენდერული

შეუსაბამობა. ადამიანის უფლებების ასპექტში გენდერული თვითიდენტიფიკაციის თვალსაზრისით გამოყოფილია სქესის ისეთი კრიტერიუმები, როგორცაა ფსიქოლოგიური და სოციალური სქესი. სტატიაში განხილულია ადამიანის უფლებათა ევროპული სასამართლოს პრეცედენტული სამართალი გენდერული იდენტურობის უფლების გარანტიების შესახებ. გაანალიზებულია საერთაშორისო გამოცდილება

საზოგადოებრივი ცხოვრების სხვადასხვა სფეროში გენდერული პოლიტიკის შედეგების მისაღწევად, განსაკუთრებით სპორტში, განათლებასა და ბიზნესში. აქცენტი გაკეთებულია მსოფლიოში გენდერულად ნეიტრალური (ინკლუზიური) ენის პოზიტიურ ასპექტებზე, როგორც გენდერულად ტოლერანტული დემოკრატიული სახელმწიფოს ძირითადი მახასიათებლის შესახებ.

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