UDC 340.11(477+450) DOI: https://doi.org/10.32631/pb.2025.2.11

VLADYSLAV IVANOVYCH TEREMETSKYI,
Doctor of Law, Professor,
State Organization "V. Mamutov Institute of Economic and Legal Research of the National Academy of Sciences of Ukraine" (Kyiv),
Department of Modernizing Commercial Law and Law,
Sector of Problems of Implementation of Economic Legislation;
https://orcid.org/0000-0002-2667-5167,
e-mail: vladvokat333@ukr.net;

VIKTOR VIKTOROVYCH LAZARIEV,
Candidate of Law, Associate Professor,
Kharkiv National University of Internal Affairs,
Department of Theory and History of State and Law;
https://orcid.org/0000-0001-9468-0497,
e-mail: judge2101@gmail.com

ISSUES OF LAWMAKING AND LAWMAKING TERMINOLOGY IN UKRAINE AND ITALY

The article focuses on the comparison of Ukrainian and Italian lawmaking activities and lawmaking terminology, which allowed to identify similar approaches to the lawmaking process and lawmaking terminology, and to outline the differences in the lawmaking process and the content of lawmaking terminology, and the peculiarities of its consolidation at the level of regulatory legal acts. The author emphasises that lawmaking is one of the main activities of a modern rule-of-law state. It is established that a special feature of the Italian Constitution is the presence of a special section devoted to the procedure for adopting laws, which contains a detailed description of the terminology of the lawmaking process. Particular attention is paid to the comparative analysis of Ukrainian and Italian lawmaking terminology, which made it possible to identify common features in the approaches to the lawmaking process, in particular, in terms of understanding of such concepts as: "legislative function", "legislative initiative", "draft law", "promulgation of laws", "popular referendum", "delegation of the legislative function". At the same time, the author identifies a number of differences relating to both the legal nature of these terms and the specifics of their enshrining at the regulatory level. The author emphasises that Italian legislation has a clearer terminological distinction of concepts, their consistency and stability, which ensures a higher level of legal certainty. In the Ukrainian legal system, on the other hand, some terms have a broader understanding, which sometimes complicates their practical application in lawmaking. These steps will allow Ukraine not only to increase the efficiency of lawmaking, but also to bring the national legal system closer to the standards and best practices of the European Union.

Keywords: *lawmaking, terminology, legal system, Italy, Ukraine, legislation, legislative function, draft law.*

Original article

INTRODUCTION. Lawmaking is one of the main activities of the modern rule-of-law state and is carried out within the framework of both legislative and executive power. At the same time, given the huge number of areas of public relations that require legal regulation at different levels of state power and local self-government, lawmaking requires the definition of common, primarily conceptual, principles of such activities aimed at implementing the basic principles of lawmaking, in particular: democracy, rule of law, scientific validity, systematicity, comparativity, connection with the practice of application, professionalism, etc. (Kot, Hryniak, Milovska, 2022). This issue becomes particularly relevant when comparing the legal systems of states with different legal traditions, in particular Ukraine and Italy. The comparative approach allows us to identify both institutional and linguistic and terminological features of lawmaking, which, in turn, affect the quality of legislation and its perception in society.

Ukraine has formed a significant body of scientific research on lawmaking. A wide range of legal terminology on lawmaking has also been formulated. The issue of scientific heritage on lawmaking in Ukraine can be divided into two historically formed periods: the formation of a scientific school and the formation of heritage

based on the need to regulate lawmaking. This was partly done through the regulations of the Verkhovna Rada of Ukraine. This process was more thoroughly regulated after the adoption of the Law of Ukraine "On Lawmaking Activities"[1]. The adoption of this law, as well as the socio-political events of the second decade of the twenty-first century, determined the European vector of development of the Ukrainian legal system, which set requirements for the state to harmonise Ukrainian legislation with the legal standards of the European Union (hereinafter – the EU). This fully applies to lawmaking and legal terminology.

Italy, like Ukraine, has gone through numerous high-profile social and political events. It is a country with a developed legal culture and has close historical ties with Ukraine. In this regard, there is an objective need to pay attention to the Italian experience, in particular to the achievements in the field of legal terminology and lawmaking practice, which have common features with the Ukrainian legal tradition.

The Constitution of Italy[2] deserves special attention, as Section II of the Constitution is valuable in terms of regulating the procedure for adopting laws. Unlike Italy, Ukraine has no constitutional regulation of lawmaking. The legislative procedure is regulated by the Rules of Procedure of the Verkhovna Rada of Ukraine[3] and the Law of Ukraine "On Lawmaking Activities"[4]. This indicates differences in approaches to the regulation of the legislative procedure: while in Italy it is constitutionalised, in Ukraine it is transferred to a lower level, i.e. to an internal document of the Verkhovna Rada of Ukraine – the Rules of Procedure. At the same time, the institutional framework for lawmaking, as well as the relevant terminology, is gradually developing and becoming more complex in the national law of Ukraine, which is reflected in the Law of Ukraine "On Lawmaking Activities"[5]. Therefore, conducting a thorough analysis and comparison of approaches to lawmaking and legal terminology in Ukraine and Italy is a necessary condition for borrowing positive foreign experience. In particular, this will contribute to improving the quality of national lawmaking, strengthening the rule of law in conditions of martial law, increasing the effectiveness of response to military threats, and ensuring human rights and freedoms. All of the above determines the relevance of the chosen topic of scientific research.

PURPOSE AND OBJECTIVES OF THE RESEARCH. *The purpose* of the article is to make a comparative analysis and identify the specific features of the lawmaking process and lawmaking terminology in Ukraine and Italy.

The objectives of the article are as follows: to identify common approaches to the organisation of the lawmaking process and the formation of lawmaking terminology in Ukraine and Italy; to outline the key differences in the lawmaking process, the content of lawmaking terminology and the degree of its regulatory consolidation in both legal systems; to determine the possibilities of adapting the positive Italian experience to improve the efficiency of national law-making and bring the Ukrainian legal system closer to EU standards.

LITERATURE REVIEW. The legal terminology constantly attracts the attention of scholars, which indicates the continuing relevance of this topic. A review of scientific research on the language of law and legal terminology in Italy allows us to identify a number of important approaches to its analysis. In particular, F. Romano and A. Cammelli (2023) described an information system created for the analysis and study of the Italian legal language. R. Gualdo (2007) analysed the specifics of the modern Italian legal language in the context of European integration, focusing on terminological difficulties and efforts to simplify the legal language to increase its comprehensibility.

I. Genew-Puhalewa (2011) studied the process of unification of legal terminology in the European Union legislation both in terms of content and formal expression. E. Kościałkowska Okonska (2011) devoted her work to the peculiarities of translation of legal terminology and legal texts related to EU legislation. L. Goletiani (2020) compared the use of modal verbs expressing obligation in legal texts in Ukrainian and Italian. G. Bednarek (2012) studied the problem of translating legal concepts and notions not only between different languages, but also between different legal systems. M.-T. Sagri & D. Tiscornia[6] analysed the

1 Verkhovna Rada of Ukraine. (2023). *On Lawmaking Activities* (Law No 3354-IX). https://zakon.rada.gov.ua/laws/show/3354-IX.

2 Shapoval, V. M. (2018). *The Constitution of the Italian Republic*. Moskalenko O. M.

3 Verkhovna Rada of Ukraine. (2010). *On the Rules of Procedure of the Verkhovna Rada of Ukraine* (Law No. 1861-VI). https://zakon.rada.gov.ua/laws/show/1861-17.

4 Verkhovna Rada of Ukraine. (2023). *On Lawmaking Activities* (Law No 3354-IX). https://zakon.rada.gov.ua/laws/show/3354-IX.

5 Ibid.

6 Sagri, M.-T., & Tiscornia, D. (2009). *The peculiarities of legal language. Problems and prospects in the European multilingual context*. Mediazioni. https://mediazioni.sitlec.unibo.it/images/stories/P

specifics of the legal language in a multilingual European space, in particular, the problems of translation and interpretation of legal terms in different languages of the European Union.

In her study of the legal nature of lawmaking, M. Baschiera (2006) examined the mechanisms of delegation of legislative powers and their impact on the formation and development of the lawmaking process. R. Caroccia (2019) examined how modern legislative interpretations affect lawmaking and the enforcement of the principle of legality. W. Nardini (1998) in his dissertation research revealed the role of the Italian Constitutional Court in the formation of the legal system through its impact on the lawmaking process.

Domestic scholars have also actively studied the issues of legal terminology and lawmaking. In particular, M. Liubchenko (2015) in his monograph substantiated the general theoretical foundations of legal terminology and its role in the functioning of the legal system. N. Yatsyshyn (2013) and S. Shestakova (2018) studied legal terminology as a component of the system of legal categories which ensure effective communication between science and practice. H. Herhul (2008) comprehensively analysed the requirements for terms. V. Lazariev (2021; 2022) studied the specifics of the legal terminology of Ukraine in the context of its harmonisation with EU law. V. Teremetskyi (2025) in co-authorship with other scholars analysed the nature of legal terminology and the peculiarities of its formation, studied the mechanisms of unification and standardisation, and identified the main factors influencing its use.

Thus, in the scientific works of Italian and Ukrainian authors, considerable attention is paid to certain aspects of legal terminology and lawmaking. At the same time, legal terminology as a conceptual basis for lawmaking is considered only in a fragmentary manner. In addition, there are no thorough comparative studies of the terminology of lawmaking in Ukraine and Italy. Therefore, an urgent task of modern legal science is the need for a comprehensive study of legal terminology as the basis for the precise formulation of legal provisions. Resolving this issue will help to improve the national legal framework, enhance legal culture and improve the efficiency of legal regulation.

METHODOLOGY. The methodological basis of the study was a combination of general scientific and special legal methods of cognition, the application of which ensured the comprehensiveness and objectivity of scientific analysis. The terminological approach played a decisive role in the work, allowing for a deeper understanding of the essence of legal terminology through a systematic analysis of its components.

The application of the terminological approach made it possible to clarify the meaning of legal terms used in national and foreign legal practice, taking into account their semantics, contextual use and logical and categorical relationships between legal concepts. In addition, this approach has helped to streamline the terminology used in lawmaking, which is an important factor in ensuring uniformity of law enforcement, consistency of rulemaking and proper legal interpretation.

The hermeneutic method allowed for a deeper understanding of the essence of legal terminology through its connection with the general context of legal science, the current regulatory framework and law enforcement practice. The application of this method involved analysing the meaning of legal terms in a broad sense, taking into account their historical evolution, sociocultural background and peculiarities of functioning in different legal systems.

The application of the hermeneutical method made it possible to determine the place of each legal term in the system of jurisprudence, and to study its content in the context of legal provisions, doctrinal provisions and general legal principles. This made it possible not only to clarify the literal meaning of the terms, but also to reveal their deep legal essence. In addition, the hermeneutic approach contributed to the understanding of the peculiarities of using legal terminology in different legal contexts, which is important for the correct interpretation and application of legal provisions.

The method of comparison has proved to be useful not only for clarifying the properties of legal terminology, common and distinctive characteristics and interrelationships of legal terms in different legal systems, but also for determining the patterns of their functioning and use. The application of this method has made it possible to identify common and distinctive characteristics of terms in national and foreign legal traditions, as well as to establish certain patterns of their development and use. This method made it possible to carry out a deeper analysis of legal terminology through the prism of its interpretation and practical application in different legal systems.

The comparative method also helped to identify direct and indirect relationships between legal terms, which made it possible to trace how individual legal categories interact and influence each other in the law-making process. This, in turn, helped to identify problems of terminological

DF_folder/document-pdf/terminologia2009/02_sagri_tiscornia.pdf.

consistency between different legal systems. The use of the comparative method made it possible to identify general trends in the development of legal terminology and its adaptation to changes in legal regulation.

The method of abstraction made it possible to consider a legal term not only as a linguistic unit, but also as an element of the legal system that performs communicative, regulatory and cognitive functions. This made it possible to identify the general properties of terms, abstracting from the specific contexts of their use, and to form an idea of their role in lawmaking.

The empirical analysis played an important role in the study of legal terminology, as it allowed not only to get acquainted with the existing approaches to its use in legislation, but also to identify typical patterns, key trends and features of its functioning in the process of lawmaking.

RESULTS AND DISCUSSION. One of the peculiarities of the Constitution of Italy[1], compared to the Constitution of Ukraine[2] is the presence of a separate section devoted to the legislative process. This section uses many terms related to lawmaking: "legislative function", "legislative initiative", "draft law", "promulgation of laws", "popular referendum", "delegation of legislative function", "ratification of international treaties".

We consider it appropriate to start by considering the essence of the concept of "legislative function" in the legislation and legal doctrine of Italy and Ukraine. Thus, according to one of the authoritative Italian legal dictionaries[3], the legislative function is an activity aimed at creating primary legal acts, i.e. laws that form the legal order of the state. Article 70 of the Italian Constitution assigns this function to both chambers of parliament, while Article 76 allows for its delegation to the Government in exceptional cases. In addition, legislative powers are granted to the regions within their competence.

The Italian scientific literature emphasises that the legislative function is the main competence of the Italian Parliament, which is exercised jointly by the Chamber of Deputies and the Senate of the Republic in accordance with Article 70 of the Constitution. This approach is an embodiment of the principle of perfect bicameralism, which provides that both chambers must approve the same text of the law for it to enter into force[4].

N. Busani[5] distinguishes between the ordinary legislative function and the constitutional legislative function, emphasising the differences not only in the scope and significance of the acts adopted, but also in the procedural requirements accompanying these processes. The ordinary legislative function involves the adoption of general laws aimed at regulating current social relations within the framework of the existing constitutional system. Instead, the constitutional legislative function concerns the adoption of acts that directly amend the text of the Constitution or have the same legal force as it, i.e., enshrine the fundamental principles of the rule of law.

Despite the outward similarity of procedures, the exercise of the constitutional legislative function involves a much higher level of procedural complexity: for example, the need for a qualified majority in parliament, the mandatory holding of several readings, the existence of time intervals between them, and the possibility or necessity of holding a national referendum. These mechanisms are aimed at ensuring the stability of the constitutional order and preventing abuse of legislative powers in the field of the fundamental law.

In his works, S. Cicconetti (2003; 2019) defines the legislative function as a political activity aimed at creating regulations that is the result of political choices made by bodies such as parliament. He emphasises that this function is free in purpose, subject to higher-level norms, and that the legislative process is governed by both mandatory and flexible provisions, such as parliamentary rules.

In his analysis of parliamentary functions, G. Fontana[6] identifies the legislative function as one of the three main functions of parliament, along with the control and policy direction functions. He emphasises that this function consists in the production of normative acts and is central to the activities of the parliament.

As for Ukraine, V. Kolyukh (2015, pp. 137–138) defines the legislative function of the parliament as

1 Shapoval, V. M. (2018). *The Constitution of the Italian Republic*. Moskalenko O. M.

2 Verkhovna Rada of Ukraine. (1996). *The Constitution of Ukraine* (Law No. 254к/96-ВР). https://zakon.rada.gov.ua/laws/show/254к/96-вр.

3 Brocardi.it. (n.d.). *Legislative power or function*. https://www.brocardi.it/dizionario/4846.html.

4 DirittoEconomia.net. (n.d.). *The legislative function of the Parliament*. https://www.dirittoeconomia.net/diritto/parlamento/funzione_legislativa.htm.

5 Busani, N. (n.d.). *Legislative function – Government*. Busani & Partners. https://www.notaio-busani.it/it-IT/diritto-governo-funzione.aspx.

6 Fontana, G. (2010). *Parliament: Contribution to a dictionary of constitutional history*. Diritto @ Storia. https://www.dirittoestoria.it/9/Contributi/Fontana-Parlamento-dizionario-diritto-costituzionale.htm.

the adoption of laws, amendments to them, recognition of their legal force, cancellation or suspension of laws. The respective function is the main, priority one in the system of parliamentary functions, since the main powers of the parliament are aimed at adopting laws that determine the quality of the rule of law. There is no denying the fact that "a comprehensive and complete understanding of the legislative function of the parliament is impossible without knowledge of the mechanism of its implementation, i.e., the elements, subjects of legislative and other activities closely related to lawmaking".

Ya. Nazarenko (2010, p. 159) notes that the leading function of the Verkhovna Rada of Ukraine is its legislative activity, which plays a key role in the functioning of the legal system of the state. This function involves, first of all, the adoption of laws. In addition, the parliament is empowered to amend and supplement existing legislation, review and update its content in line with new challenges of social development. The Verkhovna Rada also has the right to declare laws null and void, repeal them or temporarily suspend their effect, which ensures flexibility of legislative regulation and adaptation of the legal system to changing political, social and economic conditions. Thus, the legislative function of the parliament covers not only the creation of new legal norms, but also ensuring the relevance and effectiveness of existing legislation. Agreeing with this point of view, Yu. Nechyporenko (2013, p. 365) notes that "the legislative function of a representative body is an activity aimed at adopting laws in all spheres of public life".

At the regulatory level, issues related to legislative activity are regulated by Article 19-1 of the Law of Ukraine "On the Rules of Procedure of the Verkhovna Rada of Ukraine"[1].

Thus, the legislative function in Ukraine and Italy is exercised by the respective representative bodies – the parliaments of both countries (the Verkhovna Rada of Ukraine and the Parliament of the Italian Republic, consisting of the Chamber of Deputies and the Senate). In doctrinal studies, the concept of the "legislative function" in both countries is interpreted as a key form of exercising people's sovereignty and as the main form of expressing the state will through the normative regulation of social relations. However, despite the conceptual similarity, there are certain differences in the way this category is enshrined in the national legal system.

In Italy, the legislative function is clearly defined at the level of the Constitution of 1948[2], which reveals not only the subject composition of lawmaking, but also the procedure for delegation of powers, restrictions on the subject matter of lawmaking and control mechanisms. Constitutional regulation provides legislative activity with stability, consistency and clarity, which reduces the likelihood of legal conflicts. Instead, in Ukraine, despite the general definition of the functions of the Verkhovna Rada in the Constitution, a more detailed disclosure of the mechanisms for the implementation of the legislative function is provided mainly through sectoral legislation (in particular, the Laws of Ukraine "On Lawmaking Activities"[3], "On the Rules of Procedure of the Verkhovna Rada of Ukraine"[4] etc.). This approach creates space for interpretations and changes that may reduce the predictability of the lawmaking process. Thus, the legal nature of the legislative function in both countries reflects similar theoretical foundations, but differs in the level of regulation, which affects the quality, hierarchy and stability of the legislative process.

As for the right of legislative initiative, according to Article 71 of the Italian Constitution[5], it belongs to the government, each member of the parliamentary chambers, as well as to those bodies and institutions to which this right is granted by constitutional law. The people exercise legislative initiative by submitting a draft law by at least fifty thousand voters.

The legal literature at the doctrinal level provides a detailed interpretation of the legal nature of Article 71 of the Italian Constitution, which defines the range of subjects vested with the right of legislative initiative. According to the provisions of this article, this right belongs to the Government, each member of the parliamentary chambers, bodies and persons to whom it is expressly granted by constitutional law, as well as to the people, who exercise it by submitting a bill with the support of at least fifty thousand voters.

The comments to this article emphasise that legislative initiative is implemented through the

1 Verkhovna Rada of Ukraine. (2010). *On the Rules of Procedure of the Verkhovna Rada of Ukraine* (Law No. 1861-VI). https://zakon.rada.gov.ua/laws/show/1861-17.

2 Shapoval, V. M. (2018). *The Constitution of the Italian Republic*. Moskalenko O. M.

3 Verkhovna Rada of Ukraine. (2023). *On Lawmaking Activities* (Law No 3354-IX). https://zakon.rada.gov.ua/laws/show/3354-IX.

4 Verkhovna Rada of Ukraine. (2010). *On the Rules of Procedure of the Verkhovna Rada of Ukraine* (Law No. 1861-VI). https://zakon.rada.gov.ua/laws/show/1861-17.

5 Shapoval, V. M. (2018). *The Constitution of the Italian Republic*. Moskalenko O. M.

official submission of a draft law to one of the two chambers of parliament – the Chamber of Deputies or the Senate. The doctrine also draws attention to the fact that the subjects of legislative initiative, in addition to the government, individual deputies and the people, include regional councils (consiliums), which indicates recognition of the role of territorial autonomies in shaping the national legislative order. Such an approach demonstrates pluralism in the sources of legislative initiative and provides wider democratic access to the lawmaking process[1].

Other researchers, analysing Article 71 of the Italian Constitution, point out that legislative initiative is the first step in the legislative process. The constitutional provision attributes the right of legislative initiative to the Government, to each member of Parliament and to the bodies to which it is assigned by law, as well as to the people. The Constitution explains that the Government's legislative initiative is exercised through the submission of draft laws discussed by the Council of Ministers and approved by the President of the Republic, while the initiative of citizens requires the submission of a draft law signed by at least fifty thousand voters[2].

In any case, the legislative initiative cannot be exercised outside this limited circle of subjects, since the granting of this right to other bodies or subjects can only take place through the adoption of a constitutional law[3]. At the same time, the initiative is limited to the right to submit a proposal and does not entail the right to discuss (let alone adopt) its proposals[4].

Turning to Ukraine's legal heritage, it should be noted that Article 93 of the Constitution of Ukraine[5] states that "the right of legislative initiative in the Verkhovna Rada of Ukraine belongs to the President of Ukraine, the People's Deputies of Ukraine and the Cabinet of Ministers of Ukraine". In detailing this provision of the Constitution of Ukraine, clause 3 of Article 4 of the Law of Ukraine "On Lawmaking Activities"[6] states: "the subject of lawmaking initiative is a public authority, other state body, its official, or other authorised entity that, in accordance with the Constitution of Ukraine and/or the law or other regulatory act adopted in accordance with them, has the right to submit a draft regulatory act for consideration by the subject of lawmaking activity for its adoption (publication) in accordance with the procedure established by law".

At the doctrinal level, V. Panasiuk (2024, p. 88) argues that "legislative initiative is a stage of the legislative process that provides for the exercise of the right to submit to the Verkhovna Rada of Ukraine draft laws or other acts of the Verkhovna Rada of Ukraine, proposals and amendments to draft laws by subjects recognised by law, and the 'right of legislative initiative' should be considered as the possibility provided for by law to submit to the Verkhovna Rada of Ukraine draft laws or other acts of the Verkhovna Rada of Ukraine, proposals and amendments to draft laws".

According to V. Plaksa (2022, p. 128), "legislative initiative is a stage of the legislative process that provides for the exercise of the right to submit to the Verkhovna Rada of Ukraine draft laws or other acts of the Verkhovna Rada of Ukraine, proposals and amendments to draft laws by subjects recognised by law, and the 'right of legislative initiative' should be considered as the possibility provided by law to submit to the Verkhovna Rada of Ukraine draft laws or other acts of the Verkhovna Rada of Ukraine, proposals and amendments to draft laws".

S. Husarov (2015, p. 55) notes that in the legal literature the concept of "legislative initiative" has two main meanings. Firstly, legislative initiative is one of the stages of the legislative process. Secondly, it is considered as a certain private right of authorised subjects to submit draft laws to the legislature.

It is worth noting that both Italy and Ukraine regulate the issue of legislative initiative at the constitutional level, which indicates the particular importance of this legal category for the functioning of a democratic state governed by the rule of law. The constitutions of both countries contain a list of subjects authorised to initiate the legislative process. In this context, the definition and characteristics of the concept of legislative initiative are largely similar: the President, MPs, the government and other institutional actors can initiate consideration of draft laws.

1 Brocardi.it. (n.d.). *Legislative power or function*. https://www.brocardi.it/dizionario/4846.html.

2 Studio Cataldi. (n.d.). *Art. 71 of the Constitution*. https://www.studiocataldi.it/articoli/44229-art-71-costituzione.asp.

3 Shapoval, V. M. (2018). *The Constitution of the Italian Republic*. Moskalenko O. M.

4 Treccani. (n.d.). *Legislative procedure*. https://www.treccani.it/enciclopedia/procedimento-legislativo/.

5 Verkhovna Rada of Ukraine. (1996). *The Constitution of Ukraine* (Law No. 254к/96-ВР). https://zakon.rada.gov.ua/laws/show/254к/96-вр.

6 Verkhovna Rada of Ukraine. (2023). *On Lawmaking Activities* (Law No 3354-IX). https://zakon.rada.gov.ua/laws/show/3354-IX.

However, the Constitution of Italy[1] has one significant feature: it explicitly provides for the possibility of popular legislative initiative. In particular, Article 71 stipulates that not only the Parliament and the Government, but also citizens have the right to submit a bill, provided that they collect at least fifty thousand signatures. Thus, the mechanism of direct democracy in the field of legislative activity is formalised at the constitutional level in Italy. At the same time, there is no similar provision in Ukrainian constitutional regulation. Despite the fact that the Constitution of Ukraine declares the right of citizens to participate in the legislative process in Article 5 ("the people are the only source of power in Ukraine"), which creates the basis for the implementation of mechanisms of participation in the legislative process by citizens), and Article 38 ("citizens have the right to participate in the management of public affairs, in national and local referendums…"), which guarantees the participation of citizens in the democratic process, including influence on lawmaking through the election of representatives to the Parliament, the initiation of draft laws (through people's legislative initiative), etc.

As for the next term, it is worth noting that Article 72 of the Italian Constitution[2] uses the term "draft law" (*progetto di legge*) and regulates the main stages of parliamentary consideration of legislative initiatives. This article describes the procedure for passing a draft law within the parliament: first, it is subject to review by a specialised parliamentary commission, which carries out initial analysis, discussion and, if necessary, preparation of amendments. After that, the draft law is submitted to the relevant chamber of parliament – the Chamber of Deputies or the Senate – where it is voted on article by article, and then the bill is voted on as a whole.

In addition, this article provides for the possibility of delegating powers to parliamentary commissions to adopt laws under a simplified procedure, but in certain cases – in particular, when it comes to constitutional amendments, laws regulating fundamental rights and freedoms, the budget, amnesty or ratification of international treaties – such a simplified procedure is not allowed. Thus, Article 72 not only defines the technical aspects of the legislative process, but also establishes institutional guarantees of parliamentary control and compliance with the formal legislative procedure.

In Italy, the term "bill" (or "draft law") refers to a text consisting of one or more articles that is submitted to Parliament for the purpose of enacting a law. In order to enter into force and be finally approved, a bill must be supported by both chambers of parliament – the Chamber of Deputies and the Senate of the Republic – in identical versions.

In the Chamber of Deputies, the term "draft law" is used for texts submitted by deputies, and the term "bill" is used for texts submitted by the government. In the Senate, the term "bill" is used in both cases[3].

Article 74 of the Constitution of Ukraine[4] 7 provides that "a referendum is not allowed on draft laws on taxes, budget and amnesty". Article 89 provides: "The Verkhovna Rada of Ukraine shall establish committees of the Verkhovna Rada of Ukraine from among the members of the Parliament of Ukraine for the purpose of legislative work, preparation and preliminary consideration of issues within its powers, and performance of control functions in accordance with the Constitution of Ukraine, and shall elect chairmen, first deputies, deputy chairmen and secretaries of these committees".

Legislative work is directly defined by the laws of Ukraine "On the Rules of Procedure of the Verkhovna Rada of Ukraine"[5], "On Committees of the Verkhovna Rada of Ukraine"[6].

Thus, it should be emphasised that the term "draft law" is enshrined in both the Italian Constitution[7], and the Constitution of Ukraine[8], which indicates its key role in the structure of national legislation of both countries. At the same time, a comparative analysis shows that Italy and Ukraine apply different approaches to regulating the procedures related to the consideration of

1 Shapoval, V. M. (2018). *The Constitution of the Italian Republic*. Moskalenko O. M.

2 Ibid.

3 Pagella Politica. (n.d.). *Draft law*. https://pagellapolitica.it/dizionario/disegno-di-legge.

4 Verkhovna Rada of Ukraine. (1996). *The Constitution of Ukraine* (Law No. 254к/96-ВР). https://zakon.rada.gov.ua/laws/show/254к/96-вр.

5 Verkhovna Rada of Ukraine. (2010). *On the Rules of Procedure of the Verkhovna Rada of Ukraine* (Law No. 1861-VI). https://zakon.rada.gov.ua/laws/show/1861-17.

6 Verkhovna Rada of Ukraine. ([1]995). *On Committees of the Verkhovna Rada of Ukraine* (Law No. 116/95-ВР). https://zakon.rada.gov.ua/laws/show/116/95-вр.

7 Shapoval, V. M. (2018). *The Constitution of the Italian Republic*. Moskalenko O. M.

8 Verkhovna Rada of Ukraine. (1996). *The Constitution of Ukraine* (Law No. 254к/96-ВР). https://zakon.rada.gov.ua/laws/show/254к/96-вр.

draft laws. In particular, the Constitution of Italy[1] (Articles 70-73) contains a detailed description of all stages of the legislative process - from submission of an initiative to promulgation of a law. These provisions define the procedure for consideration of drafts in the chambers of parliament, set deadlines, voting conditions, the possibility of making amendments, and provide for procedures for returning documents for revision. This level of detail at the constitutional level ensures a high degree of predictability, transparency and legal certainty in the legislative procedure, which guarantees the stability of the rule of law, strengthens public trust in government institutions and contributes to the effective functioning of the parliament.

In Ukraine, the Constitution[2] only outlines the general principles of the legislative process (Articles 85, 91, 93, etc.), without regulating in detail the procedure for consideration of draft laws. Specific mechanisms, stages and procedural requirements are set out in specialised legal acts, primarily in the Laws of Ukraine "On the Rules of Procedure of the Verkhovna Rada of Ukraine"[3], "On Committees of the Verkhovna Rada of Ukraine"[4], "On Lawmaking Activities"[5]. This model provides for some flexibility in parliamentary regulation, but at the same time creates potential risks of frequent changes in the lawmaking procedure without the need to amend the Fundamental Law[6]. Thus, the Italian approach is characterised by constitutional stability and a high level of detail, while the Ukrainian approach is characterised by normative adaptability, but with a lesser degree of constitutional entrenchment of procedures.

The legal dictionary of the Italian Encyclopaedia Institute states that a promulgation is an act by which the head of state certifies the completion of the lawmaking process. He issues an order for its promulgation, which is realised by including it in the official collection of legislation, as well as for its compliance by the persons and bodies to whom it is addressed[7]. That is, after the law is adopted by the parliament, the legislative process continues at the level of the president of the republic. In fact, the head of state has the right to promulgate laws, but he can also send them back to the chambers with a reasoned message if he sees any critical comments. However, this prerogative cannot be repeated. In fact, if the parliament decides to re approve the same text, whether or not it has taken into account the comments, the president of the republic is obliged to sign and promulgate the law[8].

Paragraph 29 of Article 106 of the Constitution of Ukraine[9] provides that the President of Ukraine signs laws adopted by the Verkhovna Rada of Ukraine. However, unlike the Italian Constitution[10], which states that "the President of the Republic shall promulgate laws within one month after their adoption"[11], in Ukraine, according to Article 94 of the Constitution of Ukraine[12] "the President of Ukraine shall sign the law within fifteen days after receiving it, accepting it for implementation, and officially promulgate it or return the law with his motivated and formulated proposals to the Verkhovna Rada of Ukraine for reconsideration".

The Constitution of Italy[13] provides that "A law shall be published immediately after its promulgation and shall enter into force on the fifteenth day after its publication, unless otherwise provided by the law itself". In Ukraine, the procedure for the official promulgation and entry into force of laws is determined by the Law of Ukraine "On Lawmaking Activities"[14]. This law

1 Shapoval, V. M. (2018). *The Constitution of the Italian Republic*. Moskalenko O. M.

2 Verkhovna Rada of Ukraine. (1996). *The Constitution of Ukraine* (Law No. 254к/96-ВР). https://zakon.rada.gov.ua/laws/show/254к/96-вр.

3 Verkhovna Rada of Ukraine. (2010). *On the Rules of Procedure of the Verkhovna Rada of Ukraine* (Law No. 1861-VI). https://zakon.rada.gov.ua/laws/show/1861-17.

4 Verkhovna Rada of Ukraine. (1995). *On Committees of the Verkhovna Rada of Ukraine* (Law No. 116/95-ВР). https://zakon.rada.gov.ua/laws/show/116/95-вр.

5 Verkhovna Rada of Ukraine. (2023). *On Lawmaking Activities* (Law No 3354-IX). https://zakon.rada.gov.ua/laws/show/3354-IX.

6 Verkhovna Rada of Ukraine. (1996). *The Constitution of Ukraine* (Law No. 254к/96-ВР). https://zakon.rada.gov.ua/laws/show/254к/96-вр.

7 Treccani. (n.d.). *Promulgation*. https://www.treccani.it/vocabolario/promulgazione/.

8 Openpolis. (n.d.). *How laws are made*. https://www.openpolis.it/parole/come-si-fanno-le-leggi/.

9 Verkhovna Rada of Ukraine. (1996). *The Constitution of Ukraine* (Law No. 254к/96-ВР). https://zakon.rada.gov.ua/laws/show/254к/96-вр.

10 Shapoval, V. M. (2018). *The Constitution of the Italian Republic*. Moskalenko O. M.

11 Ibid.

12 Verkhovna Rada of Ukraine. (1996). *The Constitution of Ukraine* (Law No. 254к/96-ВР). https://zakon.rada.gov.ua/laws/show/254к/96-вр.

13 Shapoval, V. M. (2018). *The Constitution of the Italian Republic*. Moskalenko O. M.

14 Verkhovna Rada of Ukraine. (2023). *On Lawmaking Activities* (Law No 3354-IX). https://zakon. rada.gov.ua/laws/show/3354-IX.

specifies the terms of signing, the terms of publication in official print media and the terms of entry into force – as a general rule, ten days after publication, unless otherwise provided by the law itself. Thus, in Ukraine, the issue of promulgation as such is not enshrined in the constitution, but is implemented through the signing of the law by the President and its official publication, which is regulated by laws.

Article 75 of the Italian Constitution[1] stipulates that a popular referendum is called to repeal a law or act having the force of law in whole or in part if five hundred thousand voters or five regional councils so request. In addition, a referendum is not allowed on laws on taxes and the budget, on amnesty and pardon, and on the ratification of international treaties.

A similar restriction is enshrined in Article 74 of the Constitution of Ukraine[2], which states that "no referendum shall be held on issues related to taxes, budget and amnesty". This provision, as in the Italian Constitution, is a kind of safeguard against the use of the direct democracy instrument in areas requiring special stability, professionalism and balance of interests.

At the same time, there are significant conceptual differences between the Ukrainian and Italian constitutional models in understanding the nature of such a restriction and the general status of the referendum. In the Italian legal system, the referendum is interpreted as an effective instrument of public control over the parliament and a means of direct intervention of citizens in the legislative process. The Italian model envisages a referendum as a post factum mechanism, i.e. one that is used after the adoption of a law to repeal it in full or in part. At the same time, the Ukrainian Constitution takes a broader approach to this issue, enshrining the prohibition on holding a referendum on certain issues as part of the general principles of legal regulation, which is a restriction of democracy in the interests of the stability of financial, foreign and humanitarian policy. Thus, the provision on referendum in the Constitution of Ukraine[3] reflects the doctrinal understanding of the limits of direct democracy.

It is also worth noting that Italy has an institution of abrogation referendum (referendum abrogativo), which has no direct analogue in the Ukrainian system, where the advisory or constituent function of a national referendum prevails. This approach demonstrates greater flexibility and involvement of citizens in the process of controlling the current legislation in Italy.

With regard to the delegation of the legislative function, we note that Article 76 of the Italian Constitution[4] states: "the exercise of the legislative function may be delegated to the Government only for a limited time, with the principles and criteria for such delegation and in relation to certain matters defined". At the same time, the law on delegation of powers to the government specifies the guidelines and evaluation criteria that are binding on it, as well as the terms and scope of such delegation.

As for Ukraine, it should be noted that the Constitutional Court of Ukraine states that "delegation of powers is an important constitutional and legal institution, which is the transfer of powers from one subject of power to another. Delegation of powers is not a form of their final transfer. They remain the powers of the body from which they are delegated and can be returned or changed"[5].

Also, the issue of delegation of legislation in Ukraine, at the doctrinal level, has been studied by a number of scholars. As noted by P. Shliakhtun (2005, p. 101), delegated legislation is the issuance by the government, with the authority (delegation) of the parliament, of legal acts that actually have the force of laws.

According to N. Zhuk (2007, p. 186), delegation can be assessed in different ways. On the one hand, it can be seen as a deviation from the principle of separation of powers. On the other hand, in exceptional cases, the delegation of legislative powers may be justified and appropriate in view of the effectiveness of management decisions.

Thus, a comparative analysis of the delegation of the legislative function in Italy and Ukraine shows that there is a common understanding of

1 Shapoval, V. M. (2018). *The Constitution of the Italian Republic*. Moskalenko O. M.

2 Verkhovna Rada of Ukraine. (1996). *The Constitution of Ukraine* (Law No. 254к/96-ВР). https://zakon.rada.gov.ua/laws/show/254к/96-вр.

3 Ibid.

4 Shapoval, V. M. (2018). *The Constitution of the Italian Republic*. Moskalenko O. M.

5 Constitutional Court of Ukraine. (2009). *Decision of the Constitutional Court of Ukraine in the case on the constitutional petition of the Verkhovna Rada of the Autonomous Republic of Crimea on the compliance with the Constitution of Ukraine (constitutionality) of paragraphs 1, 4, 8, 10, subparagraph "b" of paragraph 2 of paragraph 13, paragraphs 14, 17 of Section I of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on the Implementation of State Architectural and Construction Control and Promotion of Investment Activity in Construction"* (Decision No. 4-рп/2009). https://zakon.rada.gov.ua/laws/show/v004p710-09.

this institution as an exceptional mechanism for the temporary transfer of lawmaking powers from the legislature to the executive. At the same time, while in Italy this procedure is clearly regulated by the Constitution, defining its limits, principles and timeframes, in Ukraine delegation is viewed mainly through the prism of the Constitutional Court's decisions and doctrinal approaches.

CONCLUSIONS. The study conducted to compare lawmaking and lawmaking terminology in Italy and Ukraine allows us to identify both similar approaches and differences in the content of legal categories and mechanisms of their implementation. In this regard, it is worth noting that in both countries the legislative function is equally regarded as the main mechanism for the normative regulation of social relations, which is enshrined in the respective constitutions. The Ukrainian and Italian legal systems equally recognise the parliament as the central subject of lawmaking (in Ukraine – the Verkhovna Rada of Ukraine, in Italy – the National Parliament of Italy (*Parlamento Italiano*). The texts of the basic laws of both countries also use the term "draft law", which underlines the similarity of approaches to regulating lawmaking at the regulatory level. At the same time, despite the external similarity of concepts, there are differences in the content of lawmaking terminology and the degree of its regulatory consolidation. In particular, the Constitution of Italy regulates the stages of passage of a draft law: legislative initiative, discussion in the chambers, adoption, promulgation by the President and entry into force. In Ukraine, similar procedures are described in the laws ("On the Rules of Procedure of the Verkhovna Rada of Ukraine" and "On Lawmaking Activities").

The institution of people's legislative initiative is quite interesting. In Italy, it is clearly regulated: citizens can submit bills to the parliament if they collect at least 50,000 signatures (Article 71 of the Constitution). In Ukraine, despite the recognition of the right of citizens to participate in lawmaking, the mechanism of such an initiative is not enshrined in the Basic Law. Italy also uses the institution of an abolition referendum, a specific form of public control that allows for the repeal of an existing law. In Ukraine, on the other hand, the referendum has a predominantly advisory or constituent function, and the Constitution explicitly prohibits referendums on the budget, taxes and amnesty.

Another difference concerns the "promulgation" procedure. In Italy, the Constitution stipulates that the President signs a law within a month of its adoption, after which the act is promulgated and enters into force 15 days later. In Ukraine, the promulgation procedure is not regulated by the Constitution, but is prescribed in ordinary laws, in particular the Law on Lawmaking, which sets the deadline for promulgation (no later than 15 days after the President's signature) and entry into force (10 days later, unless otherwise provided).

Thus, despite the common terminological basis, the Italian law-making system is distinguished by a higher level of constitutional regulation, stability of terms and institutionalised mechanisms of citizen participation. For its part, Ukrainian legislation tends to be flexible and specially regulated, but needs to be improved by detailing the lawmaking procedures in the Constitution, introducing direct popular initiative, enshrining the institution of an abolition referendum, and unifying terminology. These steps will allow Ukraine not only to increase the efficiency of lawmaking, but also to bring the national legal system closer to the standards and best practices of the European Union.

REFERENCES

1. Baschiera, M. (2006). Introduction to the Italian Legal System. The Allocation of Normative Powers: Issues in Law Finding. *International Journal of Legal Information, 34*(2), 279–326.

2. Bednarek, G. (2012). The approximation of criminal laws in the European Union: the demise of incongruency of legal terminology in legal translation? *International Journal for Legal Communication, 1*, 37–51. https://doi.org/10.14746/cl.2012.10.03.

3. Caroccia, R. (2019). Rule of Law in the Italian Legal Environment: a Principle still in Force? *European Journal of Transformation Studies, 7*(2), 237–244.

4. Cicconetti, S. M. (2003). *Elements of Constitutional Law*. Giappichelli.

5. Cicconetti, S. M. (2019). *Parliamentary law*. Giappichelli.

6. Genew-Puhalewa, I. (2011). European Union terminology unification – directions for the contrastive study of two Slavic and two non-Slavic languages. *Research in Language, 9*(1), 69–79.

7. Goletiani, L. (2020). *Obligation markers in Ukrainian and Italian legal language: a contrastive study of a parallel normative text*. University of Milan. https://air.unimi.it/handle/2434/745292.

8. Gualdo, R. (2007). The words of the law in an Italian and European perspective. In A. Cerri (Ed.), *Reasonableness in scientific research and its specific role in legal knowledge* (pp. 155–170). Aracne Editrice.

9. Herhul, H. (2008). Requirements for legal terms. *Bulletin of Lviv Polytechnic National University, 620*, 294–297.

10. Husarov, S. M. (2015). Subjects of legislative initiative in Ukraine. *Our Law, 6*, 54–60.
11. Kolyukh, V. (2015). The legislative function of the parliament and the practice of its implementation in the foreign states. *State and Law. Series: Political Sciences, 68*, 135–147.
12. Kościałkowska-Okońska, E. (2011). EU Terminology in Interpreter Training: Selected Problem Areas Connected with EU-Related Texts*. Research in Language, 9*(1), 111–124.
13. Kot, O. O., Hryniak, A. B., & Milovska, N. V. (Ed.). (2022). *Lawmaking in Ukraine: Prospects for legislative regulation*. Helvetika.
14. Lazariev, V. (2021). Features of the use of legal terminology in the countries of the European Union. *ScienceRise: Juridical Science, 3*(17), 4–8. http://doi.org/10.15587/2523-4153.2021.241513.
15. Lazariev, V. V. (2022). Conceptualization of legal terminology: the need for a transparent terminological approach. *Law and Safety, 1*(84), 73–80. https://doi.org/10.32631/pb.2022.1.08.
16. Liubchenko, M. I. (2015). *Legal terminology: concepts, features, types*. Prava liudyny.
17. Nardini, W. J. (1998). *Italian constitutional court decisions upholding unconstitutional laws: Cautionary tales for a US balanced budget amendment* [LL.M. thesis, European University Institute].
18. Nazarenko, Ya. M. (2010). Types of functions of the Verkhovna Rada of Ukraine. *Uzhorod University Herald. Series: Law, 14*, 158–163.
19. Nechyporenko, Yu. (2013). Legislative and constituent functions of the parliament of Poland: effectiveness of implementation. *Scientific Notes of the I. F. Kuras Institute of Political and Ethno-National Studies of the NAS of Ukraine, 1*, 363–376.
20. Panasiuk, V. M. (2024). The Right of Legislative Initiative: Content and Forms of Implementation. *Analytical and Comparative Jurisprudence, 4*, 87–90. https://doi.org/10.24144/2788-6018.2024.04.13.
21. Plaksa, V. I. (2022). Problem aspects of definition of the concept "subject of legislative initiative". *Scientific Notes of Taurida National V. I. Vernadsky University. Series: Public Administration, 3*, 125–129. https://doi.org/10.32838/TNU-2663-6468/2022.3/21.
22. Romano, F., & Cammelli, A. (2023). The resources of the IS-LeGI database for the study of the language of law. *CHIMERA: Journal of the Corpus of Romance Languages and Language Studies, 10*, 237–245.
23. Shestakova, S. (2018). Features of legal terminology as a specialized system of legal concepts. *Scientific Herald of International Humanitarian University, 33*(1), 71–73.
24. Shliakhtun, P. P. (2005). *Constitutional Law: Dictionary of Terms*. Lybid.
25. Teremetskyi, V. I., Lazariev, V. V., Topchii, V. V., Vitiuk, D. L., & Roy, O. V. (2025). Legal terminology as the basis for the accuracy of legal norms. *Edelweiss Applied Science and Technology, 9*(3), 479–488. https://doi.org/10.55214/25768484.v9i3.5242.
26. Yatsyshyn, N. P. (2013). Terms of law as specialized system of legal concepts. *Terminological Bulletin, 2*(2), 99–103.
27. Zhuk, N. A. (2007). *Parliament, President, Government: From Mutual Restraint to Balance*. Kharkiv yurydychnyi.

Received the editorial office: 20 April 2025

Accepted for publication: 15 June 2025

ВЛАДИСЛАВ ІВАНОВИЧ ТЕРЕМЕЦЬКИЙ,
доктор юридичних наук, професор,
Державна установа «Інститут економіко-правових
досліджень імені В. К. Мамутова
Національної академії наук України» (м. Київ),
відділ проблем модернізації господарського права та законодавства,
сектор проблем реалізації господарського законодавства;
ORCID: https://orcid.org/0000-0002-2667-5167,
e-mail: vladvokat333@ukr.net;

ВІКТОР ВІКТОРОВИЧ ЛАЗАРЄВ,
кандидат юридичних наук, доцент,
Харківський національний університет внутрішніх справ,
кафедра теорії та історії держави та права;
ORCID: https://orcid.org/0000-0001-9468-0497,
e-mail: judge2101@gmail.com

ПИТАННЯ ПРАВОТВОРЧОСТІ ТА ПРАВОТВОРЧОЇ ТЕРМІНОЛОГІЇ В УКРАЇНІ ТА ІТАЛІЇ

У статті приділено увагу порівнянню української та італійської правотворчої діяльності та правотворчої термінології, що дозволило виявити схожі підходи до правотворчого

процесу та правотворчої термінології, окреслити відмінності у процесі правотворчої діяльності і змісті правотворчої термінології, особливостях її закріплення на рівні нормативно-правових актів.

Наголошено, що правотворчість належить до основних напрямів діяльності сучасної правової держави. Встановлено, що особливістю Конституції Італії є наявність спеціального розділу, присвяченого процедурі прийняття законів, у якому детально прописано термінологію правотворчого процесу.

Особливу увагу приділено порівняльному аналізу української та італійської правотворчої термінології, що дало змогу виявити спільні риси у підходах до правотворчого процесу, зокрема щодо розуміння таких понять, як «законодавча функція», «законодавча ініціатива», «законопроєкт», «промульгація законів», «народний референдум», «делегованість законодавчої функції». Водночас встановлено низку відмінностей, які стосуються як юридичної природи означених термінів, так і особливостей їх закріплення на нормативному рівні. Акцентовано увагу на тому, що в італійському законодавстві спостерігається чіткіше термінологічне розмежування понять, їх системність і сталість, що забезпечує вищий рівень правової визначеності. Натомість у правовій системі України деякі терміни мають ширше розуміння, що іноді ускладнює їх практичне застосування у правотворчій діяльності.

Зазначено, що попри спільну термінологічну основу, італійська правотворча система вирізняється вищим рівнем конституційного регулювання, стабільністю термінів та інституціоналізованими механізмами участі громадян. Українське законодавство водночас тяжіє до гнучкості та спеціального правового регулювання, однак потребує вдосконалення через деталізацію процедур правотворчості у Конституції, запровадження прямої народної ініціативи, закріплення інституту аболіційного референдуму та уніфікацію термінології. Ці кроки дозволять Україні не лише підвищити ефективність правотворчої діяльності, а й наблизити національну правову систему до стандартів та передового досвіду Європейського Союзу.

Ключові слова: *правотворчість, термінологія, правова система, Італія, Україна, законодавство, законодавча функція, законопроєкт.*

Цитування (ДСТУ 8302:2015): Teremetskyi V. I., Lazariev V. V. Issues of Lawmaking and Lawmaking Terminology in Ukraine and Italy. *Law and Safety*. 2025. No. 2 (97). Pp. 135–146. DOI: https://doi.org/10.32631/pb.2025.2.11.

Citation (APA): Teremetskyi, V. I., & Lazariev, V. V. (2025). Issues of Lawmaking and Lawmaking Terminology in Ukraine and Italy. *Law and Safety, 2*(97), 135–146. https://doi.org/10.32631/pb.2025.2.11.