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Prohibition of Discrimination as a Principle of Social Security in the Context of Ensuring Equal Rights and Opportunities

The authors of the article consider the issue not only as the basis for building mandatory functions in the field of social security, but also as a tool for the uniform distribution of social security factors. For this, an analysis was performed, which uses the mechanism of the initial analysis of equality and on this basis the limits that require legislative consolidation are determined for the use of restrictive mechanisms. The article discusses the definition of equality and, accordingly, the restriction of rights in the generic concept and highlights the foundations of regulation and the restriction of inequality at the level of fundamental documents of the state. Practical significance is determined by the fact that mechanisms for ensuring equal opportunities are identified and principles for regulating the sufficiency of social security are formed for citizens who experience discriminatory influence both from the state and from individual citizens.

Divieto di discriminazione come principio di sicurezza sociale nel contesto di garantire pari diritti e opportunità

Gli autori dell'articolo considerano il problema non solo come base per la creazione di funzioni obbligatorie nel campo della sicurezza sociale, ma anche come strumento per la distribuzione uniforme dei fattori di sicurezza sociale. Per questo, è stata eseguita un'analisi, che utilizza il meccanismo dell'analisi iniziale dell'uguaglianza e su questa base i limiti che richiedono il consolidamento legislativo sono determinati per l'uso di meccanismi restrittivi. L'articolo discute la definizione di uguaglianza e, di conseguenza, la restrizione dei diritti nel concetto generico e mette in evidenza le basi della regolamentazione e la restrizione della disuguaglianza a livello dei documenti fondamentali dello stato. Il significato pratico è determinato dal fatto che vengono identificati i meccanismi per garantire pari opportunità e si formano principi per regolare la sufficienza della sicurezza sociale per i cittadini che subiscono un'influenza discriminatoria sia dallo stato che dai singoli cittadini.

1. *Introduction.* Equality as a legal principle is a postulate that stipulates equal opportunities to participate in the management of public affairs for each member of society, as well as to exercise and protect their rights and legitimate interests. Equality as a legal category, does not deny and does not neglect the actual inequality of individuals, it is objectively formed in society, but at the same time establishes the inadmissibility of any discrimination of one individual relative to another. The principle under consideration involves the

establishment of equal conditions and opportunities for all individuals and for each of them to participate in society, to freely and fully exercise their rights, freedoms and legitimate interests, as well as their protection. Modern equality is the equality of individuals as members of society. It is this notion of equality that has developed within the framework of the social concept of equality, which is the result of a long historical development. It allows considering equality as a comprehensive universal principle, which includes property, social, political and other aspects.

On the basis of the universal definition of equality, the constitutional legal concept of the principle of equality was formulated: equality of citizens is one of the fundamental principles of constitutionalism and an element of democracy, meaning officially defined equality of citizens (subjects) before the state, law, court, i.e. equal rights, freedoms and duties of citizens of one state, regardless of gender, race, nationality, language, origin, property and official position, place of residence, religion, membership of public associations, or other circumstances[1]. At the same time, at the doctrinal level, the possibility of the existence of certain differences in the rights and obligations of specific individuals and individual social groups is recognized.

Factoring in all these principles, we can offer a generalized definition of equality in the meaning of the principle. Equality is a fundamental element of the constitutional status of an individual, consolidated at the constitutional level[2]. This principle means the proclamation of the equal value of each person, including their rights and freedoms; providing individuals with equal legal opportunities to participate in public life; recognition of their equal rights, freedoms and duties; non-discrimination; establishment and application of unified legal means; creation of real guarantees for individuals to exercise their rights, freedoms and legitimate interests.

The principle of equality was reflected in many constitutional documents and thereby received legal significance. The reality of equality characterizes the level of democracy of the social and state system[3]. The proclamation of the rights and freedoms of man and citizen makes sense only if the state guarantees basic social equality and owelty, therefore, in all constitutions, chapters on rights and freedoms begin with the consolidation of their

[1] ALLAN, *Freedom, equality, legality*, in *The Legal Doctrines of the Rule of Law and the Legal State (Rechtsstaat),* edited by Silkenat, Hickey, Barenboim, Cham, 2014, 155 ss.

[2] ANDRADE NETO, *A charter of rights with wide scope*, in *Borrowing Justification for Proportionality: On the Influence of the Principles Theory in Brazil,* Cham, 2018, 187 ss.

[3] SMITH, *Equality, evolution and partnership law*, in *Journal of Bioeconomics*, 2001, 3(2), 99 ss.

guarantees. Constitutional law of the state of law provides only legal, formal equality between people[4]. The constitutional principle of equality is an indispensable condition for all democracies[5]. The constitutional doctrine of modern states recognizes equality as a principle of constitutionalism, as one of the essential elements of democracy.

2. *Literature review.* In modern constitutions, the principle of equality potentially constitutes the most important concept, which imposes a significant constitutional restriction on the activities of the legislative and executive branches of government. This principle can be understood and defended in different ways, depending on whether it is understood in a broad or narrow sense, whether it is applied in the protection of one person or a group of persons, whether it is understood as a principle that prohibits certain types of discrimination, or requires equal distribution of the public good or establishes the obligation of positive action by the state to ensure such equal distribution[6]. Citizens have equal constitutional rights and freedoms and are equal before the law. There can be no privileges or restrictions on the grounds of race, colour, political, religious and other beliefs, gender, ethnic and social origin, property status, place of residence, linguistic or other grounds. The principle of equality is one of the fundamental constitutional principles in the legal space. It complies with the general standards enshrined in international legal acts on the protection of human rights and freedoms[7].
A historical analysis of the category of equality should begin with the very idea of equality, which started taking shape in the early stages of human development. Back in the talion principle and in the mythological image of the scales of justice is the idea of equal retribution for the deed fixed[8]. And although there is no clear anthropological and archaeological evidence, it can still be assumed that in ancient times, at the initial stage of the formation of human society, there were small tribes or settlements where collective farming was conducted on the principles of equal participation in labour and in the

[4] ANGELO CORLETT, *Global justice*, in *Race, Rights, and Justice*, Dordrecht, 2009, 85 ss.
[5] SHAH, *Is caste already part of UK equality law?*, in *Against Caste in British Law: A Critical Perspective on the Caste Discrimination Provision in the Equality Act 2010*, London, 2015, 99 ss.
[6] HOLMES, *Principles of nature, human association and the politics of equality*, in *Ontopoietic Expansion in Human Self-Interpretation-in-Existence: The I and the Other in their Creative Spacing of the Societal Circuits of Life Phenomenology of Life and the Human Creative Condition (Book III)*, edited by Tymieniecka, Dordrecht, 1998, 219 ss.
[7] KIIKERI, *Comparative law in European legal adjudication*, in *Comparative Legal Reasoning and European Law*, Dordrecht, 2001, 57 ss.
[8] DORFMAN, *Reasonable care: equality as objectivity*, in *Law and Philosophy*, 2012, 31(4), 369 ss.

distribution of what was mined[9]. With that, the organization of the primitive collective of people was based on a kind of "biological" or "natural" equality of its members as individuals of the same species having common ancestors, which was complemented by a functional division of roles between different individuals, including purely biological relations of dominance, close to them by their nature. Such order was largely spontaneous, instinctively biological, and biological rather than social in nature[10]. Of course, this did not exclude inequality in many other areas and, due to necessity, had an organizational beginning (leader, shaman, etc.) and, of course, on biological grounds, including on the basis of gender. Since a lifestyle was cultivated in the days of early civilizations, the people of the ancient Near East created a social climate in which it was easy for her husband to dominate[11]. When all social forces "tied" a woman to the house to limit her communication to her own family, to ban strangers from appearing at all, the result was the enslavement of the mind, as well as the body. A very small number of women claimed any rights. However, in the First Dynasty of Egypt there was a Queen (approximately 3000 BC), sovereign in her personal right, which is believed to have been important in the precarious political situation that resulted from the unification of northern and southern Egypt. After fifteen hundred years, Queen Hatshepsup ruled (1505-1483 BC), who made a significant contribution to the expansion of Egypt's trade. Other names in ancient Egyptian records included Tai, Nefertiti, Cleopatra. According to the laws of Egypt, a man and a woman were considered virtually equal, but this was a meaningless equality for the majority.

3. *Materials and methods.* It would be fair to consider the ancient "equality" as equality, which gave way to inequality. In this regard, the methodological basis is primarily a historical study of the issue. The essence and nature of primitive communal democracy were determined by the specifics of society of this period. With the underdevelopment of individual personal consciousness, which does not yet oppose itself to a tribal, collective consciousness, the place of each individual in society was determined by traditions and customs. This ideological foundation of the idea of equality was supplemented by the

[9] SEPIELLI, *The law's 'majestic equality'*, in *Law and Philosophy*, 2013, 32(6), 673 ss.
[10] MARSHALL, *Equality under the law*, in *Against Equality: Readings on Economic and Social Policy*, edited by Letwin, London, 1983, 207 ss.
[11] HJORTH, *Equality without sovereignty*, in *Equality in International Society: A Reappraisal,* London, 2014, 109 ss.; DOUGLAS, FINNANE, *Equality before the law*, in *Indigenous Crime and Settler Law: White Sovereignty after Empire*, London, 2012, 121 ss.

general participation of individuals in public work. Under the tribal system, all social life was predominantly patriarchal in nature. The model of equality was accordingly of a similar nature during this period. The basis of equality was the almost equal participation of each individual in social life. This circumstance manifested itself in the organization of society[12].

Gradually, there is a transition from a mythological worldview to a rational, metaphysical one. In the classical form, it is realized precisely in the ancient world, where rational teachings on law and the state were born, and consequently so was a separate science of law as a system of concepts and categories that allow to systematize ideas about law, based on the principles of formal equality[13]. The issue of equality and inequality is becoming one of the most pressing for philosophical schools, which, in turn, formulate opposing approaches to this issue, expressed in the ideas of equality and the ideas of hierarchy[14]. Among the supporters of the idea of equality in the Middle Ages, we can refer to such thinkers as Marsilius of Padua, Henry de Bracton, Philippe de Rémi, sire de Beaumanoir, Eike von Repgow. The latter, in particular, in his work Sachsenspiegel (Saxon Mirror), spoke out against slavery and servitude and noted that man was created in the image and passions of God[15]. Of course, religion, which played a special role in medieval society, could not but affect the vital aspects of life, including the problems of equality and inequality. But its attitude to these issues was mixed.

The mentioned discrepancies are explained by the complex, sometimes contradictory relations between the church and the state, which caused numerous corrections, additions, and processing of the "sacred texts" by many generations over the millennium[16]. However, it was during the Middle Ages that the idea of universal equality of people was developed in various forms and directions. Despite the class nature of feudal society, the idea of equality of all before the law begins to emerge, which was later reflected in the

[12] DE GEORGE, *Freedom, genetics and the law: Comment on "genetic equality and freedom of reproduction"*, in *The Journal of Value Inquiry*, 1977, 11(3), 208 ss.

[13] FRANCIONI, *Global justice, equality and social inclusion: What kind of "modernization" of international law?*, in *Global Justice, Human Rights and the Modernization of International Law*, edited by Pisillo Mazzeschi, De Sena, Cham, 2018, 225 ss.

[14] FRICK, *The idea of human rights in global contexts: the equality dimension*, in *Human Rights and Relative Universalism*, Cham, 2019, 153 ss.

[15] HJORTH, *Sovereign equality and its discontents*, in *Equality in International Society: A Reappraisal,* London, 2014, 84 ss.

[16] KOROWICZ, *Equality and other fundamental rights of states*, in *Introduction to International Law: Present Conceptions of International Law in Theory and Practice,* Dordrecht, 1959, 226 ss.

Magna Carta of 1215[17]. In addition, it was the church environment that generated anticlerical movements, including religious wars, one of the slogans of which was the elimination of the unequal situation. The contradictory attitude towards the ideas of equality was ultimately determined by the very social life. We can say that in medieval Europe the idea of equality will suffer a second crisis. The absolutization of equality is kept in various heretical communities, and later becomes one of the driving forces of the Reformation. At the end of the Middle Ages, a rational approach to the idea of equality was developed, which was especially strengthened after a change in ideological paradigms, the transition from patristics to scholasticism, from Platonism to Aristotelism. The indicated paradigm shift process found its expression in the so-called *Papal Revolution* of the late 11th – 12th centuries, which facilitated the penetration of rational principles into the political and legal sphere, one of the consequences of which was the revival of Roman law and its further reception[18]. These circumstances enabled the correlation of the idea of equality with real political and legal practice, although they did not completely remove the contradictions between them. With the beginning of the collapse of the feudal system in Europe, there is a wide movement against the Catholic Church, the period of the Reformation begins. The development of philosophical and political thought in combination with political practice leads to a revival of the idea of equality.

The main requirement of that time will be the restoration of early Christian equality as a norm. Rebels call for civil equality. Martin Luther argued that none of the people has superiority over their own kind, all classes are the same. This interpretation was actually the first version of the principle of equality in its classical form. The problem of equality has gained popularity in the writings of the representatives of utopianism (16th century – early 18th century). One of the first creators of the so-called communist utopia was the English humanist Thomas More. In his work *Utopia*, he portrayed the society and state of the future, which are devoid of the shortcomings inherent in his time. It was a society of free people, based on self-government, where the principle of equality and justice would triumph. Pestilence rejected the idea of natural inequality of people, and considered the work obligatory for all to be a

[17] NIJMAN, WERNER, *Legal equality and the international rule of law*, in *Netherlands Yearbook of International Law 2012: Legal Equality and the International Rule of Law – Essays in Honour of P.H. Kooijmans*, edited by Nijman, Werner, Hague, 2013, 3 ss.

[18] WETZEL, *Equality, the family, and the law*, in *The World of Women: In Pursuit of Human Rights,* edited by Campling, London, 1993, 152 ss.

condition for achieving general equality. The philosopher supported the idea of equality between women and men. Women should study crafts on a par with men, as they should be as educated as men.
In the 17-18 centuries, there is a transition from mysticism and religion as ways of mastering the world to scientific rationalism, which will become the ideological justification for new changes in society. Protesting against feudal survivals and focusing on the ideals of the ancient Greek and Roman republics, representatives of this trend developed a new concept of a democratic rationally organized society based on the principles of equality of members of society[19]. This idea will be realized in the course of bourgeois revolutions, which will lead to the consolidation of equality as one of the basic principles of a democratic state.
The leading legal doctrine of this time was the theory of natural law, the prominent representatives of which were J.-J. Russo, J. Locke, T. Hobbes, I. Kant and others. This doctrine recognized all people as equal by nature, that is, endowed with natural passions and aspirations, mind and will. The primitive state of society was understood "as a war of all against all", and the state and law as means of limiting personal arbitrariness in the common interests. The most important task of social institutions is to prevent the infringement of the rights and legitimate interests of some individuals in favour of others.
In the course of bourgeois revolutions, the idea of equality was enshrined in constitutional law. The Declaration of Independence was adopted by the representatives of 13 American colonies in the USA on July 4, 1776 at the Second Continental Congress: « [...] All people are created equal and endowed by their Creator ... with inalienable rights, which include life, freedom and the pursuit of happiness». After the principle of equal rights became the slogan of the French Revolution "Liberté", "Égalité", "Fraternité" ("Freedom", "Equality", "Brotherhood"), it was enshrined in the French Constitution of 1791 in the Constitution adopted by the Constituent Assembly on August 26, 1789. The idea of equality permeates the Declaration of the Rights of Man and of a Citizen. Article 1 of the Declaration stated: «People are born free and equal in rights. Further (Art. 6), it was specified that all citizens are equal before the law and have equal access to all posts, public positions and occupations according to their abilities and without any differences, except those conditioned upon their virtues and

[19] BRUNKHORST, *Cosmopolitanism as evolutionary advantage: can political equality be globalized?*, in *Political Equality in Transnational Democracy*, edited by Erman, Näsström, New York, 2013, 125 ss.

abilities». This was a revolutionary conclusion, because with its help one of the pillars of feudalism was destroyed – the social division of the class, when privileges were given by birth right and depended on the size of wealth.

4. *Results and discussion.* Equality as a socio-philosophical phenomenon refers to the problems that every new generation of scientists seeks to solve. We always sought to find the answer to the question of what is the equality of people and what should be a truly just society. The best scientists created projects for a fair social system wherein the principles of freedom, equality and social justice could be implemented in the best way.
We consider it appropriate to begin the study of this complex category of the most famous, textbook definitions of the concepts of equality and social equality. The first is defined as the relation of mutual interchangeability of objects, which are considered equal precisely because of their mutual interchangeability. This understanding goes back to Leibniz. Gottfried Wilhelm wrote: «Equality is the relation of mutual interchangeability (substitution) of objects, which are considered equal by virtue of mutual interchangeability». At the same time, interchangeability can be more or less complete depending on the degree of identity of objects, but it is always relative, since individual and unique objects are equated, whether they are objects of the objective world or ideas, concepts, statements. Consequently, equality is determined through the category of "attitude", which describes the interdependence of the elements of the system. Equality arises only under certain conditions. One of them is the presence of at least two objects, each of which has certain properties that appear only when they interact. According to most scientists, equality owes its origin to mathematics. Within the framework of this study, equality arising in the field of public relations is of interest, and is precisely the subject matter of our study.
The philosophers of the New Age (J.-J. Russo, I. Kant), despite the existence of the leading idea of natural equality, did not endow men and women with equal rights and duties. In Rousseau's theory, not every person is vested with all the rights of a citizen. Women, children, slaves, servants, workers, illiterates were considered insufficiently mature and independent to make decisions that concern common interests. The German rationalist philosopher Kant, in his theory of democracy, distinguishes active and passive citizenship. Active citizenship means that a person has the right to participate in political decisions. Women, children, workers can only have passive citizenship, being objects and not subjects of political life.

The concept of democracy of Rousseau and Kant recalls the ideas of Aristotle, who argued that men and women, slaves and free people cannot have equal rights. But at the same time, Rousseau did not consider the woman an inferior creature. In the treatise *Emile, or On Education*, he argues that human nature is one and «in everything that does not concern gender, a woman is equal to a man; she has the same organs, the same needs, the same abilities [...]» However, the equality of men and women as representatives of the human race does not mean their political equality. Like Aristotle, Russo claims that men and women have different virtues: a woman should be bashful, cunning, flirtatious, a man – open, direct, conscientious. A man should rely only on his own judgments, a woman should consider the opinions of other people, a man should not deceive, and a woman should pretend. Rousseau came up with revolutionary ideas for educating women, which give reason to consider him one of the founders of the ideas of liberal feminism. Although Rousseau did not think that girls and boys should be educated equally, he also opposed the view that girls should only be taught housework and childcare.

By the example of Rousseau and Kant, one can observe how the interest of thinkers in gender issues gradually shifted from the field of speculative philosophy to the field of "practical reason". According to many philosophers of the New Age, the only reason for the existence of two different sexes is to continue the human race. In their understanding, the gender difference did not belong to the field of philosophy, but rather to physiology or "morals". In general, the bourgeois concept of equality proclaimed the formal equality of individuals as subjects of law, but, in fact, absolutized the principle of equality of opportunity, without setting itself the task of filling these opportunities with real content, which caused reasonable criticism of this concept.

The contradiction between the formal equality of individuals as subjects of law and the actual social inequality that arose within the framework of the bourgeois model of equality has intensified the development of new models of equality. Furthermore, women who participated in the French Revolution were outraged by the fact that, according to the Rousseau doctrine, human rights were granted only to men. Against this was the English writer Mary Wollstonecraft. In the book *In Defence of Women's Rights* (1792), she criticizes thinkers who simultaneously spoke about the equality of the "nature" of women and men and their "natural" differences, attributing the properties of women and men to their environment (weakness, coquetry or strength, aggressiveness) to all men and women.

A fundamentally different view was formulated within the framework of Marxism, which saw the main reason for the (social) inequality in property. According to the founder of Marxism, F. Engels, equality "most likely lies in the fact that from the general property of people that they are people, from the equality of people as people, it deduces the right to equal political and social significance of all people, or at least all citizens of this state or all members of this society". The Marxist concept has become the basis for the social concept of equality, which will later become dominant. This concept was actively developed in the Soviet Union both at the theoretical and practical levels.

At the end of the 18th century – in the beginning of 19th century, the industrial revolution took place in Europe and new social relations took shape. In contrast to the Marxist concept of equality in Western society, a new model of equality (the liberal model) was developed. The bourgeois order affirmed the independence of every person who does not need guardianship and control by the state or society. The slogan of the era was the famous expression laissez faire laissez passer – let do, let go. The ideology of society's non-interference in the affairs of each person is called liberalism.

Liberal ideas, including ideas of equal rights, were widely spread in England and the USA, where the situation with women's rights worsened through the influence of the historical traditions of customary law on the formation of the legal system of bourgeois society. The first public speeches of women were not caused at all by the desire to receive any special privileges or gain authority, political rights were not mentioned either; it was an alarming call for a job. One of the petitions of 1789 proclaims the requirement to secure for women crafts related to the ability to sew, spin, weave, tissue and embroider. These demands were negatively perceived by some revolutionaries, especially those who were still influenced by Rousseau's ideas. Highly paid work, including social activity is the field of men; women, in turn, should only care about the welfare of the family. This attitude deprived women of the opportunity to participate in the economic, scientific, technical and social development of society. One of the founders of the women's movement for their rights is considered to be Englishwoman Mary Wollstonecraft. In 1792, she published the book *In Defence of Women's Rights*, which proves that the entire modern system of woman's upbringing inevitably leads to the same female weaknesses and shortcomings for which she is so often criticized: «From early childhood, women are taught and they themselves see this through the example of their mothers, that limited knowledge of the

weaknesses of human nature, successfully applied cunning, ostentatious obedience, gentleness of character and scrupulous observance of a childish behaviour will necessarily lead to the fact that men will patronise them».
At the same time, in France, the writer Olympe de Gouges began an active struggle for women's rights. In 1771, she became a member of the Social Club, which advocated for the political and legal equality of women and men. In her conviction, a woman is no less than a man capable of enjoying civil liberties and governing the state. Olympe's natural mind and talent allowed her to raise the French women to fight. French women under the leadership of Olympe de Gouges began to demand representation in parliament, but the Constitution of 1791 did not satisfy their demands. The woman was assigned to the category of "passive" citizens who had no voting and civil rights. Then Olympia de Gouges created the famous manifesto in defence of women's rights – the Declaration of the Rights of Women and Citizens. For the first time in history, the Declaration formulated the requirement of equal rights for women and men before the law: «a woman is born and remains free and equal with a man in the face of the law». Article 6 of the document reads: «Laws must express universal will, all citizens, both women and men, must personally or through their representatives promote legislation. Both men and women should be equal before the law, have equal access to public posts, honours, social activities according to their abilities and on the basis of their talents». Olympe de Gouges expressed her extremely bold views at that time, for which she was arrested and further executed in November 1793 by the verdict of a revolutionary tribunal on the guillotine as an "enemy of the revolution" and a royalist.
18th century became a time of dramatic change. This century, first of all, was marked by the fact that the idea of equality, which was previously developed only as a theoretical construct, first finds its legislative and constitutional consolidation. Changes in society have created the conditions for the formation and development of new paradigms based on the principle of equality, especially gender-based. In the 19th century, gender ideas spread even further, leading to the first wave of feminism. In literature, this wave is characterized primarily as a struggle to provide women with equal rights with men. This movement has received the name of "suffragettes" – a movement for the equality of political rights, primarily for suffrage. Representatives of this movement in England were Harriet Taylor, Margaret Fuller, Harriet Martino, in the USA – Lucretia Mott and Elizabeth Sadie Stanton. However, the history of feminism should begin with the English philosopher and

economist John Stuart Mill (1806-1873), who can rightly be called a "feminist", since he was one of the first to put forward the concept of "complete equality" of man and woman. Of course, for Mill and other liberals, equality meant legal equality, eliminating any external obstacles to the realization of one's personal interests. However, for Europe of the end of the 18th – beginning of the 19th century, even such ("formal") equality was a utopian idea: although women were taxed on a par with men, their rights to own property were significantly limited. In many European countries, a woman could not marry without the consent of her parents or guardians. Mill reacted sharply to the contradictions between the dominant ideology of laissez faire and the inequality of women. In his opinion, in modern society, the fate of a person should be determined only by their personal abilities, and not by whether they were born a man or a woman, a nobleman or a peasant. People are free to use their abilities to arrange their fate as they please. The fact that women remain doomed to lawlessness by the very fact of their birth, the philosopher perceived as a relic of the era of feudalism. Mill believed that the dominance of a man over a woman is not "natural" (as well as the slavery of blacks, which the majority at that time declared as such that "naturally" follows from the "nature" of the black race). He argued that the "nature" of both men and women is unknown to us, and "what is now called nature is nothing but an artificial product".

In the XIX century, the first political organizations of women also emerged, primarily suffragist ones. The right to vote became the main requirement of these organizations, especially in the UK and America. A women's movement manifesto was proclaimed by American activists at the first ever women's rights conference. In 1848, 200 women and 40 men gathered in the town of Seneca Falls (New York State), where, after heated discussions, they adopted the Declaration of Feelings, writing down the main ideas and principles of suffrage. By this name, the author of the manifesto Elizabeth Stanton emphasized the connection with the document "sacred" for American democracy, adopted during the American Revolution – the Declaration of Independence, which proclaimed that «all people are created equal and endowed with inalienable rights by their Creator». At the conference, the motto of the new movement was formulated: «All men and women are created equal», and the basic requirements were proclaimed: women as citizens of the United States should have full political rights, as well as the right to divorce, custody of children in case of divorce, ownership property and inheritance, the right to own earnings and higher education.

A few women's groups in America and Europe, by the beginning of the 20th century, turned into influential national coalitions and associations. Using all means of civic activity, the suffragists tried to achieve a change in laws, to do everything so that their voice was heard. Mass demonstrations, petitions, appeals to parties and political figures, rallies, demonstrative, even provocative protests were aimed at attracting public attention, changing policies and implementing reforms. At that time, mainly women from the middle class took part in the activities of organizations and protests (workers in factories and plants had no time for social activity). Later, the socialists also made a stand in defence of women's rights. One of the most famous activists of the German and international socialist and women's movement was Clara Zetkin. She went down in history not only as an active communist, but also as a woman reformer who played an important part in the formation of the European movement for women's rights.

Another model of equality was proposed by socialism, which was based on Marxist theory, which laid the foundation for the so-called Marxist feminism. Its main provisions were set forth in the philosophical works of Marxism. First of all, in the work *Woman and Socialism* (1879) by August Bebel, and later in *The Origin of the Family, Private Property and the State* (1884) by Friedrich Engels in the *Manifesto of the Communist Party* (1848) K. Marks and F. Engels. A significant contribution to the development of Marxist feminism was made by the participants in the socialist revolutionary movement of the 19th and 20th centuries. Clara Zetkin, Rosa Luxemburg and Alexandra Kollontai. The elements of equality, which are traditionally distinguished in the scientific literature, are: equality; formal legal equality or equality in the "law"; equality before the law; equality before the court; the same right for all citizens who possess the qualities established by law, the right to occupy public posts; equality in relation to taxes; equal protection of the law; equality of rights and freedoms; equality of responsibility; equality of legal status. At the same time, it is impossible to recognize each of the listed categories as a separate element of equality, since they are closely interconnected. Considering equality precisely in the meaning of the legal category, we inevitably come to the conclusion that in legal science there is no single understanding of the legal nature of equality. The situation is complicated by the presence of another concept – equality. Upon assessing legal concepts, the forefront is the question of how correctly, adequately and objectively the knowledge of reality is reflected in existing laws, therefore, both in theoretical and in practical terms, it is important to find out the

content of both concepts and their relations.
We shall examine how the correlation of the concepts of "equality" and "equal rights" is interpreted in modern legal theory. Equality is inherent in the same legal position of a person before the law, that is, the identification of the whole complex of rights, freedoms and duties, and equal rights, in turn, are described by the identification of exclusively human rights. Such an interpretation reflects not only the differences in these concepts, but also their completeness (content). Legal equality is defined as the equality of free and independent subjects of law on a scale common to all, a single norm, an equal measure. The proposed definition is much broader, since the employed concept of "norm" is quite broad. Equal rights of citizens should be considered even more broadly, as a kind of relationship between a person and a citizen with society and the state, which is characterized by both social aspects (achieved level of social equality) and regulatory content (achieved level of legal equality), that is, as a regime of equal rights – a social and legal category. Equality is a universal form of expression of legal balance, a combination of individuals, individual social strata and population groups, as well as nationalities. Equality is the same legal status of citizens (and non-citizens), that is, the coincidence of the entire complex of rights and obligations for all persons. Equality, in turn, is a coincidence of only the scope of rights, in constitutional law this concept is also expressed as equality of rights and freedoms.
Equal rights are uniformity, that is, the equality of human and civil rights in everything, it is differentiated, divided into general social and legal. General social equality is the uniformity of the fundamental rights and freedoms of each person, which lies in the factual equality of human rights and freedoms. Legal equality is the sameness, equality of the legal status of state and right-determining entities, primarily the equality of their basic (constitutional) rights and legal duties, which consists in the formal equality of rights and freedoms. Equality of people is the actual, real uniformity of their social opportunities in the use of human rights and freedoms and in the performance of social duties.
Equality is not a legal category at all, but a socio-moral, political phenomenon. Equality is an ideal, a universal value, a guarantee of a legal, political and social order, it is an evaluation criterion for the correspondence of an ideal and the reality of its embodiment in a specific, socially significant sphere of public life. Equality means, first of all, equal opportunities for subjects of human rights. Most authors present the concept of "equality" as a definite

theoretical abstraction, which is detailed through the concept of "equal rights". It should be noted that the term "equal rights" literally only speaks of equality of rights, but in legal theory it is interpreted more broadly, being conventionally understood as equality of rights and obligations. Of course, such an understanding is conditioned upon the influence of the principle of "unity of rights and obligations", which was widespread first in the works of the classics of Marxism, and then in scientific legal works. Equal rights, in the general sense, mean that the state provides each member of society with equal legal opportunities: the law implies equal obligations for it; the exercise of rights and obligations shall be ensured to it on an equal footing. Moreover, equal rights, unlike equality, do not provide for an equal approach to individuals. Indeed, the term "equal rights" is legally more precise, since it immediately contains two principles – "equality" and "rights". However, the use of the concepts of equality and equal rights as synonyms, in our opinion, is not an erroneous practice, which corresponds to the generally accepted approach of European scientists. Considering the fact that from the standpoint of constitutional law, equality is a general legal principle, the principle of the legal status of an individual, and that, within the framework of this study, we consider equality in the legal dimension, in terminological terms, unless otherwise specified, we support the thesis "equality (legal dimension) = equal rights".

Undoubtedly, equality as a principle is not an invention of modern legal science; this construction was known back in ancient times, although in a slightly different form and content. This is confirmed by the fact that the equality of rights and obligations is not abstract, but historically specific. Studying equality as a principle of the constitutional legal status of an individual, it is necessary to consider the very category of "legal status". The legal status of a person is the legal status of an individual, reflecting its actual state in mutual relations with society, the state, and other people. This is a system of legal rights, freedoms, duties and legitimate interests in their unity, the basis or core of a legal status. The constitutional status of a person is a legal status, which is determined by the norms of the Constitution. The constitutional legal status of a person is a broader concept, since it includes the provisions of not only the Constitution, but also other sources of constitutional law. In science, the discussion regarding the structural elements of the constitutional legal status of a person is still ongoing, however, a common approach is where the structure of a constitutional legal status of a person includes such elements as rights, freedoms and duties and legal

interests; citizenship; legal personality; guarantees of rights and freedoms; principles; legal responsibility. Within the framework of the study, we especially highlight such an element as the principles of the constitutional legal status of the individual, among which the principle of equality is fundamental.

It should be noted that in the legal literature they offer various definitions of the principles of law. As a rule, in a legal doctrine, in defining the concept of principles of law, scientists use such categories as initial theoretical provisions, basic, guiding principles (ideas), general regulatory provisions, leading principles, laws, essence, coordinate system, etc. The principles of law should be defined as guiding ideas characterizing the content of law, its essence and purpose in society. On the one hand, they express the regularities of law, and on the other, they are the most general provisions that apply in the entire sphere of legal regulation and apply to all subjects. These provisions are either directly stated in the law, or are derived from the general meaning of laws. In addition, the principles of law determine ways to improve legal provisions, acting as guiding ideas for the legislator, are a link between the basic laws of development and functioning of society and the legal system.

As the objective principles inherent in the law, the undeniable requirements (positive obligations) that are imposed on participants in public relations with the goal of a harmonious combination of individual, group and public interests determine the principles of law. Principles are a system of the most general and stable imperative requirements enshrined in law, which are a concentrated expression of the most important essential features and values inherent in this system of law and determine its nature and directions for further development. The principles of law, from a purely legal standpoint are not rules of conduct, but are generally binding. From the principles of law, it is possible to deduce the necessary, but unconsolidated rule of conduct. Summarizing the various definitions of the principles of law, we can distinguish two concepts that have formed in the legal doctrine. According to the first concept, built on the theory of positivism, the principles of law are ideas, theoretical, regulatory and guiding provisions of a particular type of human activity, which are specified in the content of legal provisions and are objectively determined by the material conditions of society. According to the second concept, which originates from the idea of natural law, the principles of law are understood as guiding ideas, objectively inherent in law, the starting points, undeniable requirements (positive obligations) that are imposed on participants in public relations with the aim of a harmonious combination of

individual, group and public interests and which determine the content and direction of legal regulation, reflect the most important patterns of socio-economic formation.
An analysis of the features and causes of the indicated approaches, as well as scientific disputes, consideration of the natural ideas of the emergence of law suggests disagreeing with the identification of the principles of law and legal provisions and their definition through subjective rights and obligations. At the present stage of development of society, in market conditions, scientists offer a new approach to the definition of the concept of the principles of law, factoring in the ideas of natural law as the principles underlying the law, and determining its essence and content. Modern scientific developments give every reason to define the principles of law as a category that has focused subjective-objective thoroughness, which is feature of a statutory understanding of the essence of the principles of law. In our opinion, in law, the principle appears not only as a governing idea, reflecting the essence of the relevant phenomena, but also as a general rule that determines the main direction of people's activity, the main line of their behaviour. All derived standards should be brought in line with principles that are universal and imperative. Summarizing, we can state that the importance of the principles of law is conditioned upon the common property of the highest imperativeness, universality, general significance, they are characterized by durability and stability for an indefinitely long period of time; direct the development and functioning of the entire legal system; predetermine areas of law-making, law enforcement and other legal activities; act as the most important criterion for the legality of actions of citizens, officials and other legal entities; help bridge gaps in law; affect the level of legal awareness in society.
The principle of law expresses the most important laws, but it is not identical with law, regularities, properties, goals, norms. Acting as a social reference point, it is endowed with both general properties and functions of law and specific features (universality, higher imperativeness, incontestability and stability), reflects the most important foundations of society, adds unity to legal regulation and can exercise an independent (programmed) impact on social relations. The principles of law solidify all components of a legal superstructure. The legal ideal, fixed in the ideas-principles, is realized practically as a state of social relations, formed by means of legal regulation. Such an interpretation, in our opinion, is of a general nature and serves as the basis for characterizing the principle of equality that we are studying.
In all modern concepts of democracy, despite their differences and

inconsistencies, the position that the initial postulate of democracy is the recognition of equality as a universal principle of the constitutional legal status of an individual remains the same. It is generally recognized that democracy is possible only when there is equality of community members before society and its laws, equality in the right to participate in solving common problems and in managing public life, when the rights and interests of each member of the community are considered. As noted by the famous German sociologist Karl Manheim, democracy as «[...] a structural, sociological phenomenon takes place in the political field and in the cultural social process and proceeds from the idea of the equality of all people and rejects any vertical division of society. Belief in the fundamental equality of all people is the first fundamental principle of democracy». The principle of equality refers to the fundamental principles of the constitutional level and is included in the concept of the rule of law. In particular, equal rights may be called a general principle of law, that is, equality of rights and obligations. The Constitution, for example, declares, along with the equal rights of citizens, the equal rights of other participants in various kinds of legal relations. In brief, equal rights refer to universal ideas and guidelines of the entire legal system.

Social equality characterizes a certain social state, forms an integral part of many social ideals. Social equality has received a definition of a concept that means equal social status of people belonging to different social classes and groups. Under the influence of an alternative concept (equality of results), the modern concept of social equality supplements the classical idea of formal equality of opportunity with the idea of creating real opportunities for members of society to compete with other members, with sufficient chances of success – by neutralizing social inequality through law. Fair and just distribution of social goods does not at all require their equal distribution; rather, it is seen as ensuring equal opportunities in something as "levelling the playing field" so as to make competition for resources fair, and not merely achieve a more even distribution.

Legal equality as a form of social equality is characterized by the fact that it often manifests itself in parallel with other types of equality in a special group of social relations, in legal relations. The rule of law can govern a wide variety of social relations, depending on the legal tradition prevailing in the country. Thus, the attribute that underlies the allocation of legal equality as a form of social equality is not an object of relations, but rather a way of regulating them. It is this feature that enables the distinguishment between legal equality and ethical equality or equality established by corporate standards.

The principle of equality has an extremely broad meaning, which still remains the subject of scientific discussion. As a rule, two main ways to achieve equality are determined: ensuring equal opportunities (each individual should be guaranteed equal chances to achieve success in life, this aspect is embodied in the general legal principle of equality before the law); ensuring equal results (society and the state must guarantee the equality of people by redistributing social benefits or introducing the so-called positive discrimination, which allows us to move from equality in law (as a requirement of legal non-discrimination) to equality through law (actual equality), but it is always emphasized that positive actions are temporary). In general, the principle of equality is defined as an idea, which is expressed in the following main provisions: the establishment and application of unified legal means that form the basis of the legal regulation mechanism, that is, the rule of law, legal facts, acts of the realization of the rights and obligations of all participants in public relations; the provision of a system of organizational means necessary for the enjoyment of the rights and obligations of participants in public relations; provision of equal rights and obligations of participants in public relations. Key role for the specification of the content of this principle is played by its subject (the subject of law, the legal status of which is identified by this principle).

5. Conclusions. Traditionally, equal rights are understood as equal rights of citizens. At first, equal rights were considered as a category of domestic, national use, applicable only to citizens of the corresponding state. But gradually, in connection with the extension of the national legal regime to certain categories of foreigners, the circle of persons to whom the principle of equality applies is expanding. Thus, the International Covenant on Civil and Political Rights provides an example of the general principle of equality, which underlies international human rights law with respect to non-citizens, and the limited nature of exceptions to this principle. In accordance with Art. 2 of the Covenant, each State participating in this Covenant undertakes to respect and envisage all persons within its territory and under its jurisdiction the rights recognized in this Covenant, without any difference regarding race, colour, gender, language, religion, political or other beliefs, national or social origin, property status, birth or other circumstances. The UN Human Rights Committee also notes that the rights of non-citizens can only be accompanied by restrictions that can be legally imposed under the International Covenant on Civil and Political Rights. These restrictions are divided into two categories –

political rights and freedom of movement.
Thus, to denote the legal status of the owner, and therefore the subject of equality, the term "person" is used, which is understood as a person in his social aspect, that is, a member of society. Moreover, society is considered in a broad political and social sense as the totality of all individuals located on the territory of the state and falling under jurisdiction, under the influence of its laws. Equality can be considered as an idea, as a social ideal, as a political value, as an interdisciplinary institution, as an element of a person's legal status, and even as a property of legal regulation. It is logical to distinguish various types of equality: social, political, economic, legal. In the scientific literature on problems of equality there are also its subtypes. Thus, gender equality, equality of nationalities can be considered varieties of social equality.