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CURRENT SITUATION OF JUDICIAL REFORM IN UKRAINE: PROBLEMS AND WAYS OF THEIR SOLUTION

O ESTADO ATUAL DA REFORMA JUDICIAL NA UCRÂNIA: PROBLEMAS E FORMAS DE OS RESOLVER

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Abstract: The authors have characterized reformation processes in the justice sphere, which have been recently taking place in Ukraine. The main objectives identified in the Strategy for the Development of the Justice System and Constitutional Judiciary for 2021-2023 have been analyzed. The main obstacles affecting the processes of improving the functioning of the judicial power and the administration of justice have been established. The problems that arise during the implementation of the main provisions of the Strategy for the Development of the Justice System have been identified. Examples of controversial draft laws that negatively affect judicial reform in general and the stability of the judicial system in particular have been provided. It has been asserted that the main purpose of certain draft laws is to gain control over a part of the judicial system, which negatively affects the improvement of the courts activities and the development of the judiciary. The authors have studied the main problems that determine the need for further improvement of the functioning of the judicial power and the administration of justice, as well as have offered the ways of their elimination.

Keywords: Judicial reform. Judicial system. Courts. Justice. Evaluation of court activities. Public control.

Resumo: Os autores caracterizaram os processos de reforma na esfera da justiça que vêm ocorrendo recentemente na Ucrânia. Foram analisados os principais objetivos identificados na Estratégia para o Desenvolvimento da Justiça e da Magistratura Constitucional para 2021-2023. Foram identificados os principais obstáculos que afetam os processos de melhoria do funcionamento do poder judiciário e da administração da justiça. Foram identificados os problemas que surgem durante a implementação das principais disposições da Estratégia para o Desenvolvimento do Sistema de Justiça. Exemplos de projetos de lei controversos que afetam negativamente a reforma judicial em geral e a estabilidade do sistema judicial em particular foram fornecidos. Tem sido afirmado que o principal objetivo de certos projetos de lei é obter controle sobre uma parte do sistema judicial, o que afeta negativamente a melhoria das atividades dos tribunais e o desenvolvimento do judiciário. Os autores estudaram os principais problemas que determinam a necessidade de maior aperfeiçoamento do funcionamento do poder judiciário e da administração da justiça, bem como ofereceram as formas de sua eliminação.

Palavras-chave: Reforma judiciária. Sistema judiciário. Tribunais. Justiça. Avaliação das atividades judiciais. Controle público.

1. Introduction

It is well-know that independent and impartial justice is a guarantee of sustainable development of society and the state, a guarantee of observance of human and civil rights and freedoms, the rights and legitimate interests of legal entities, the interests of the state, the growth of welfare and quality of life, the creation of an attractive investment climate, etc.

Processes related to judicial reform have required constant scientific research since the declaration of Ukraine's independence. It is about building an effective and independent judicial system with clearly defined standards for the administration of justice, aimed at ensuring the protection of the rights, freedoms and legitimate interests of citizens through timely, effective and fair resolution of legal disputes based on the rule of law.

However, the reformation processes that have been recently taking place in Ukraine are sometimes unsystematic and inconsistent that negatively affects the quality of the administration of justice and, accordingly, the trust of the population of the state in the existing judicial system. This situation is related to many factors. The main ones are: 1) the COVID-19 pandemic caused by the SARS-CoV-2 coronavirus; 2) maintaining martial law in Ukraine in regard to the military aggression of the Russian Federation against Ukraine; 3) incompleteness of the anti-corruption reform aimed at preventing and fighting corruption within the judicial system of Ukraine.

2. The Purpose and Methodology of the Research

The purpose of the article is to analyze the current situation of judicial reform in Ukraine, to identify problematic aspects of its course and to determine possible ways of solving them.

Achieving the set purpose of scientific research and its main objectives is ensured by applying appropriate philosophical and special methods of scientific cognition.

The application of the dialectical method made it possible to determine scientific and practical problems that arise during the reform of the judicial system of Ukraine, in their dynamics, which contributed to a more thorough and clear formulation of the article's conclusions. The methods of analysis and synthesis made it possible to analyze the current situation of reforming the justice system, to identify the main tendencies in the development of judicial reform, to determine its priorities, and to substantiate the authors' position regarding the

specified processes. The comparative and legal method made it possible to carry out a comparative analysis of certain provisions of Ukrainian legislation, and in combination with the methods of generalization and extrapolation – to formulate suggestions for its improvement.

Regulatory, sociological, comparative, formal and legal, logical and semantic, as well as modeling and forecasting methods have been also used in the article. Their application was aimed at determining the perspectives and areas for improving the legislation regulating relations in the research field chosen by the authors of the article.

3. Analysis of recent research

Theoretical and legal basis of this research is the fundamental scientific work of the following authors: S. O. Koroied, I. O. Kresina, S. V. Prylutzkyi, who studied the stages of reforming the judicial branch of power of Ukraine from the beginning of its independence in 1991 to the beginning of the so-called Great Judicial Reform during the President P. Poroshenko period (2015–2019). They identified the problems that, in their opinion, need to be solved at the current stage of judicial reform in Ukraine, formulated their own understanding of the main purpose, objectives and basic principles of the reform, as well as their vision of reforming the country's judicial system in general and certain institutions of justice in particular, based on the idea of decentralization of power in Ukraine (Koroied et al., 20151).

The authors while writing the article have also thoroughly studied the most significant publications of leading Ukrainian and foreign legal experts, which are posted on well-known news and analytical websites (Barkar, 2021; Project Pravo-Justice, 2023; Sudovo-yurydychna hazeta, 2023). Besides, the authors of the article have analyzed and used the works of Ukrainian scholars focused on: scientific and practical analysis of the effectiveness of the judicial system as a complete social and legal institution (Moskvich, 2011); have studied the problems of interaction of judicial governance agencies with the subjects of legislative initiative, in particular during the law-making process (Teremetskyi, 2022a); interaction of state authorities and judicial governance with other state agencies and institutions within the justice system in various directions for the proper functioning of the judicial system (Teremetskyi, 2022b), etc.

4. Results and Discussion

Inconsistent steps on the part of the state regarding the implementation of judicial reform in Ukraine

An integral component of judicial reform in Ukraine is a set of legislative amendments aimed at improving the judicial system of Ukraine. Thus, the legal principle for judicial reform in Ukraine at the current stage is the Decree of the President of Ukraine "On the Strategy for the Development of the Justice System and Constitutional Judiciary for 2021-2023" (hereinafter referred to as the Strategy) (Decree No. 231/202111, 2021). The specified Strategy defines the basic principles of the functioning and development of the justice system, priority directions for further improvement of the legislation of Ukraine on the judiciary, the status of judges and the judiciary in the relationship and interaction with other institutions of justice. The main purpose of the Strategy is the practical affirmation of the rule of law principle and effective and fair justice in Ukraine.

However, the implementation of the main problems outlined in the Strategy, which make it necessary to further improvement of the judiciary's functioning and the administration of justice, faces many obstacles. The main obstacle is the lack of the Action Plan for the implementation of the Strategy, which must be elaborated and approved by the Commission on Legal Reform. A detailed list of tasks, measures, expected results and indicators of further implementation of the reform of the judicial system, judiciary and other legal institutions should be clearly prescribed in the specified Plan.

This situation has led to the fact that draft laws that contradict each other and are not even foreseen and / or do not follow from the logic of the specified Strategy have been almost simultaneously registered in the Verkhovna Rada of Ukraine.

Here are some examples. Thus, the draft Law dated from April 3, 2023 No. 9173 by S. Demchenko and others MPs of Ukraine was registered in the Verkhovna Rada of Ukraine has registered. It contains the suggestion to optimize, but in fact to reduce the number of deputy heads of court apparatus (draft Law No. 9173, 2023). In particular, the institution of deputy heads of court apparatus has been offered to liquidate in those courts, where the number of full-time positions of judges does not exceed 10 people. The authors of this draft Law are not even embarrassed by the fact that there is currently a chronic shortage of employees in the courts. The State Court Administration of Ukraine has repeatedly stated the mass facts of their dismissal. Unfortunately, the High Council of Justice has a similar opinion, motivating it by finding funds to finance other employees of court apparatuses (Sudovo-yurydychna hazeta, April 17, 2023).

The State Court Administration of Ukraine noted that the savings due to the reduction of deputy heads of court apparatuses will be small and can solve the financial problems of only certain courts (Sudovo-yurydychna hazeta, April 17, 2023). However, the High Council of Justice approved changes to the "Model Regulations on the Court Apparatus" by its decision dated from January 25, 2022 No. 80/0/15-22, where it was stated that "the head of the local, appellate court apparatus may have a deputy, if the number of employees of the court apparatus exceeds 75 people" (Model Regulations on the Court Apparatus, 2022: paragraph 4 clause 9).

At the same time, the draft Law dated from January 13, 2023 No. 8358 by R. Babii and other MPs of Ukraine offered, due to the lack of secretaries of court hearings in the courts, to provide the possibility to perform their duties by other employees of the court apparatus, who have the appropriate education and qualification (draft Law No. 8358, 2023). Therefore, this includes the deputy heads of court apparatuses.

The second example is the following. The draft Law dated from December 21, 2022 No. 8296 by M. Dyrdin and other MPs of Ukraine suggests to change the procedure for electing and dismissing heads of courts, as well as deputy heads of courts (draft Law No. 8296, 2023). The assemblies of judges of all courts of the country are given the right to elect the heads and deputy heads of the courts for a period of 4 years. However, their appointment will be exclusively carried out by the head of the Supreme Court. We believe that such a change in the procedure for holding judges on administrative positions may lead to excessive concentration of power of the head of the Supreme Court and increase possible corruption risks.

At the same time, the draft Law dated from January 10, 2023 No. 8342 by A. Radina and other MPs of Ukraine (draft Law No. 8342, 2023) offers to liquidate the court chairman institution in its classical sense. At the same time, it is suggested to transfer the powers of court chairmen and their deputies to meetings of judges and heads of court apparatuses. We note that the XIX Congress of Judges in its address dated from January 12, 2023 stated that this draft Law is aimed at limiting judicial self-government and is, therefore, unacceptable (Sudovo-yurydychna hazeta, January 12, 2023).

The analysis of the above and other controversial draft Laws gives us reasons to claim that their main purpose is to gain control, if not over the entire judicial system, then over part of it, but not to improve the work of the courts or the development of the judiciary in Ukraine.

Problems in the implementation of the main provisions of the Strategy on the Development of Justice System

Unfortunately, it should be noted that the implementation of some of the objectives outlined in the Strategy is unsystematic, inconsistent and illogical. We would like to study the above in more details on the example of the implementation of certain and, in our opinion, main objectives outlined in the Strategy.

The first problem of the organization of the functioning of the judicial power and the administration of justice, which is mentioned in the Strategy, is defined as the failure of the High Qualification Commission of Judges of Ukraine (hereinafter referred to as the HQCJ of Ukraine) to carry out its activities and the impossibility of resuming its work without improving the legislation. Another important problem, which is closely related to this one, is that the Strategy defines the functional imperfection of the system of agencies of judicial governance and self-governance.

In the context of the above, the Strategy offers: to eliminate the duplication of functions of the agencies of judicial governance and self-governance; to form the HQCJ of Ukraine within the professional and honest members appointed based on the results of an open contest held with the participation of international experts; to ensure the institutional independence and transparency of the HQCJ of Ukraine. In addition, the Strategy envisages the development of the issue of subordination to the HQCJ of Ukraine as an agency for the selection of personnel and the career of judges of the High Council of Justice, as well as the creation of autonomous personnel and disciplinary agencies, the members of which are appointed on a competitive basis (with the involvement of international experts in the competitive selection), the continuity of the implementation of their functions by such agencies (Decree No. 231/202111, 2021).

It should be noted that the Venice Commission has repeatedly expressed concern about the functioning of judicial governance agencies, especially in the matter of the relationship between the High Council of Justice and the HQCJ of Ukraine (Opinion No. 969/2019, December 9, 2019; Opinion No. 999/2020, October 9, 2020). At the same time, the position of the Venice Commission and the Directorate General for Human Rights and the Rule of Law of the Council of Europe (GD-1) is correct, that the judicial reform, which does not affect the functioning of the High Council of Justice and the HQCJ of Ukraine, is incomplete (Opinion No. 999/2020, October 9, 2020, paragraph 38, p. 11).

Therefore, despite the gradual improvement of the interaction of the indicated subjects, the legislation in this area (to ensure its compliance with international standards and to ensure the independence of judges and justice) needs further improvement (Teremetskyi, 2022a, p. 81).

Herewith, the proper functioning of the judicial system as it is depends on it (Teremetskyi, 2022b, p. 170).

Clause 4.2.1 of the Strategy refers to the "working out the issue of subordination" of the HQCJ of Ukraine to the High Council of Justice. However, first of all, it is not specified under what conditions such subordination should occur, and secondly, it contradicts the provision on the independence of the HQCJ of Ukraine, enshrined in the Law of Ukraine "On the Judiciary and the Status of Judges" (Law of Ukraine No. 1402-VIII3, 2016: Article 92): and the relevant provisions of the Strategy, which indicate the need to "ensure the institutional independence" of the HQCJ of Ukraine (Decree No. 231/202111, 2022, paragraph 4 clause 4.2.1). Besides, the expediency of subordinating the HQCJ of Ukraine to the High Council of Justice in the future contradicts:

1) the course declared in the Strategy for the creation of "autonomous personnel and disciplinary agencies" and the principle of continuity of "the performance of the functions by personnel and disciplinary agencies" (Decree No. 231/202111, 2022, paragraph 7, clause 4.2.1) as a result of the anticipated optimization of the agencies;

2) paragraph 77 of the joint conclusion of the Venice Commission and the Directorate General for Human Rights and the Rule of Law of the Council of Europe (GD-1), where it is stated, in particular, that "... the new HQCJ of Ukraine should be given the full autonomy that used to have the previous HQCJ of Ukraine. The new HQCJ of Ukraine should base its work on the results of the work of the previous agency and should be free from the interference of the High Council of Justice". "Unification of the High Council of Justice (constitutional agency) and the HQCJ of Ukraine (whose activities are regulated only by law) can only be a long-term goal (Opinion No. 999/2020, October 9, 2020, p. 19).

Therefore, the authors of the Strategy are inconsistent in justifying the expediency of subordinating the HQCJ of Ukraine to the High Council of Justice (Teremetskyi, 2022c, p. 98). Therefore, the problems with the formation of the High Council of Justice and the HQCJ of Ukraine, the need for a clear understanding of the relationship between their legal status as agencies of judicial governance, their role in the formation of an honest and highly professional judicial apparatus, as well as the determination of their place in the justice system of Ukraine require further research.

We believe that it is expedient to preserve the autonomy and independence of the HQCJ of Ukraine as an agency for the selection of personnel and the career of judges at the current stage of judicial reform in Ukraine. However, over time, we fully suppose the unification of these

agencies during the new stage of judicial reform. It is considered optimal to have a separate chamber as part of the High Council of Justice, which would carry out the current functions of the HQCJ of Ukraine, related to the selection of candidates for the position of judges, the transfer of judges, and the qualification evaluation of acting judges.

The Strategy considers the lack of proper communication policy in the courts to be a problem of the functioning of the judicial power and the administration of justice. It is believed that the solution to this problem is possible due to the establishment of effective interaction between the existing judicial authorities (Teremetskyi, 2022a, p. 78). The development and implementation of a new Communication Strategy of the judicial power can contribute to the improvement of this interaction. It is important that judicial authorities communicate with each other, especially in crisis situations. To accomplish this, it is necessary to ensure openness, transparency and availability of information regarding the activities of the judicial power. The result of such cooperation should be the establishment of effective coordination of communication efforts in order to develop a common position on solving emerging problems.

According to the chairman of the Council of Judges of Ukraine, B. Monich "the main communication should be related to the daily work of the courts, should take place at the level of specific judicial agencies that hear cases. This will contribute in ensuring the access to information about court decisions and will ensure the transparency of the judicial power for citizens and other interested parties" (Sudovo-yurydychna hazeta, April 7, 2023).

The Strategy also mentions two interrelated problems that deserve consideration, namely: inadequate financial provision of courts at all levels and the ineffectiveness of the system of financial support to guaranteeing the independence of the judicial power. The indicated problems have several components.

Thus, during January-May 2023, the High Council of Justice made a decision to dismiss 168 judges from their positions under general circumstances. This is reported on the official website of the High Council of Justice (the HCJ website, 2023). At the same time, there is a tendency to dismiss qualified judges, who could still administer justice. According to the opinion of a member of the High Council of Justice O. Blazhivska, the reasons for the dismissal of judges "may be related to the fear of narrowing the constitutional guarantees of judges independence". First of all, it is about the possibility of limiting the judge's remuneration.

As one knows, the Constitutional Court of Ukraine has repeatedly drawn attention in its decisions to the inadmissibility of reducing the scope of judges' remuneration and lifelong financial maintenance of retired judges. Herewith, the limitation of judges' remuneration is an

encroachment on the independence of judges, which can affect the growth of the personnel crisis in the courts.

Thus, as of May 1, 2023, the payables for wages in the judicial system amounted to UAH 313 million, where the judges' remuneration is UAH 297.7 million. It led to the fact that the judges' remuneration and salaries of the employees of the court apparatus in some courts were not fully paid. According to the head of the State Court Administration O. Salnik, the payment of financial assistance for judges' vacations, as well as the judges' decision to resign contributed to the emergence of arrears for the payment of judges' remuneration (Sudovo-yurydychna hazeta, May 5, 2023a). Therefore, the problems of underfunding of the judicial branch of power are interrelated.

On this basis, the suggestion made on May 4, 2023 at the meeting of the Council of Judges of Ukraine regarding the fact that mobilized judges, regardless of whether they are in the combat zone or in the rear, should receive both payments as military personnel and judge's remuneration, is inappropriate. The High Council of Justice and the majority of members of the Committee on Legal Policy of the Verkhovna Rada of Ukraine also expressed their views on the need to preserve judge's remuneration for judges, who are enlisted in the ranks of the army. At the same time, the Verkhovna Rada of Ukraine allowed employers not to pay the average salary at enterprises to employees called up for military service during mobilization (Sudovo-yurydychna hazeta, May 4, 2023). Therefore, we believe that even taking into account the special status of judge's remuneration, receiving it from two sources is currently immoral.

Considering this opinion, we note that one of the problems for the State Court Administration of Ukraine (hereinafter referred to as the SCA of Ukraine) is that there is only UAH 1 million in the State Budget of the country for 2023 provided by the current budget program for 2022-2024 "Execution of court decisions in favor of judges and employees of the court apparatus" (the SCA website, 2022). At the same time, according to the data of the State Treasury Service, it had 399 executive documents pending execution at the beginning of March, where the debtor is the SCA of Ukraine in the amount of UAH 79.1 million. In addition, debts to the employees of the Court Security Service have accumulated over the past year in the amount of UAH 1.2 billion. (Sudovo-yurydychna hazeta, May 5, 2023b).

Unfortunately, the recommendation of the Constitutional Court of Ukraine regarding the urgent bringing the provisions of the legislation into the compliance with the Decision of the Constitutional Court of Ukraine No. 2-p/2020 (Decision No. 2-p/2020, February 18, 2020) has not been fulfilled yet. It led to the simultaneous existence of two legal entities under public law –

the Supreme Court of Ukraine and the Supreme Court, one of which is still in the process of being terminated.

The report of the Accounting Chamber dated from November 10, 2022 states that the termination of the powers of the members of the former members of the HQCJ of Ukraine on November 7, 2019 and the simultaneous failure to implement mechanisms to ensure the transitional period of the work of this Commission stopped the procedures for transferring judges and led to the unproductive use of state budget funds for the payment of judge's remuneration to those judges, who do not administer justice (Report No. 23-3, November 10, 2022, p. 6). As a way out of the situation, the authors of this report offered to enshrine clear terms in the legislation, when the HQCJ of Ukraine and the High Council of Justice are obliged to make a decision on the dismissal of a judge from the position or transfer to a corresponding position in another court (Report No. 23-3, November 10, 2022, p. 19).

Another problem that necessitates the further improvement of the functioning of the judicial power and the administration of justice is the presence of obstacles in the access to justice.

As of June 1, 2023, Ukraine fulfills all the requirements of European and international partners regarding the start of negotiations on joining the EU. It is about the new members of the High Council of Justice and the HQCJ of Ukraine, changes in the selection procedure for the Constitutional Court of Ukraine, etc. Ukraine's successful fulfillment of the formal requirements of a candidate for EU accession is an external indicator of positive judicial reform processes. However, the effective access of any person to justice and the proper implementation of this justice even during war is an internal indicator of the success of the judicial reform for the population of Ukraine, the restoration of its trust in national courts. But there are certain problems at this "front".

In accordance with international and European human rights law, the concept of the access to justice obliges states to guarantee the right of every person to go to court in order to obtain legal protection, in case if there was violation of human rights. Thus, we are talking about a legally guaranteed opportunity for a person to realize own rights (Drozdov, 2021).

Access to justice covers a number of human rights, namely the right to a fair trial under the Art. 6 of the European Convention of Human Rights and the Art. 47 of the EU Charter of Fundamental Rights and the right to an effective mean of legal protection under the Art. 13 of the European Convention of Human Rights and the Art. 47 of the EU Charter. At the same

time, both acts emphasize that the rights to an effective mean of legal protection and a fair trial must, first of all, be ensured at the national level (Drozdov, 2021).

Access to justice is a fundamental rule of law principle. It should be provided through various alternative means, namely: online services or provision of information through court websites and other means of communication; wider consultation and coordination with all justice professionals to help ensuring appropriate levels of the access to justice. At the same time, special attention should be paid to vulnerable groups during crisis situations (Covid-19 pandemic, military actions, etc.), which, as a rule, suffer even more from such a situation.

Therefore, we should agree with the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe that "judicial systems should give priority to cases affecting these groups, in particular domestic violence against women and children, as well as cases involving the elderly or people with disabilities, or cases related to serious economic situations. Vulnerabilities arising from the crisis should also be taken into account" (CEPEJ Declaration, June 10, 2020).

The last, but not least important problem, which initiates further improvement of the functioning of the judicial power and the administration of justice, is the insufficient level of implementation of digital technologies in the administration of justice. It is well-known that the E-case information and telecommunication system of pre-trial investigation has been effectively working in Ukraine for several years, which ensures the interaction between National Anti-Corruption Bureau of Ukraine, Specialized Anti-Corruption Prosecutor's Office and the High Qualification Justice Commission of Judges of Ukraine. However, the Unified Judicial Information and Telecommunication System (hereinafter referred to as UJITS), which, according to the provisions of the 2017 procedural codes of Ukraine, was supposed to digitize all processes, starting from filing a lawsuit to the execution of a court decision, still does not work properly. One of the reasons that prevented the full launch of electronic justice in Ukraine was corruption among the heads of the State Court Administration of Ukraine.

The Deputy Head of the Office of the President of Ukraine A. Smyrnov announced during the final round table hold in the High Council of Justice on December 20, 2022, that key persons, who were involved in using budget funds and donor funds for the creation and modernization of this system, were informed of the suspicion. In his opinion, the issue of creating an electronic judiciary should be transferred to the Ministry of Digital Transformation of Ukraine, which is able to solve it with the involvement of key global software developers, together with the simultaneous audit of all previous processes (Sudovo-yurydychna hazeta,

December 21, 2022). We believe that the solution of this problem is impossible without control by the High Council of Justice, the Committee on Legal Policy of the Verkhovna Rada of Ukraine and the public.

Problems that are not specified in the Strategy, but which stipulate the necessity of further improvement of the functioning of the judicial power and the administration of justice in Ukraine

Other problems of the judicial power, which are not mentioned in the Strategy, but which require their immediate solution, are the following:

1) the importance of replenishing the judges (currently there is a shortage of almost 3,000 judges). This issue can be partially solved by transferring judges from courts that are under occupation or in the zone of active hostilities. Cardinally (not earlier than spring-summer 2024) – only by conducting new or completing old contests. However, to accomplish this, we, first of all, should develop and approve standards for personnel, financial, logistical and other provision of courts with the participation of the High Council of Justice, the State Court Administration, the HQCJ of Ukraine, the Council of Judges, judges, non-governmental organizations, international organizations, participants in international technical assistance projects; obtaining expert opinions. It is important in view of the fact that these standards impact on the number of new judges for the judicial system of Ukraine;

2) solving the problem of 326 judges, who currently do not have powers due to the end of five-year term of their authorities, and dozens of judges, who have not been sworn in by the President yet (Sudovo-yurydychna hazeta, September 3, 2022);

3) solving the problem of paying salaries to the employees of the court apparatus, whose salary is not even equal to 200 US dollars, which is 10 times less than that of newly elected judges of local courts. This circumstance, as well as the heavy workload, are determining factors that affect the outflow of personnel from the courts apparatuses, and even accelerate it. At the same time, the lack of a sufficient and stable number of employees of the court apparatus directly affects the feasibility of recruiting new judges, because it can create an additional burden on the state budget;

4) mass resignations of judges (from the moment of acquisition of full-fledged members of the High Council of Justice in early 2023) in the absence of recruitment of new judges. This situation is partly explained by the fact that the detection of a disciplinary offense and bringing to

disciplinary liability can lead to the termination of the judge's resignation and the termination of the payment of the monthly lifetime allowance that was accrued in regard to the resignation;

5) the need for full digitization of the judicial branch of power, which involves the implementation and full functioning of electronic justice.

5. Conclusions

Unfortunately, the judicial power in Ukraine is still considered one of the institutions that have the least trust in society. At the time of the war beginning, Ukraine was on the verge of completing the fundamental judicial reform (2020-2022), which would lead to systemic changes, if fully implemented.

The key aspects of the new judicial reform are laid down in the comprehensive Strategy for the Development of the Justice System and Constitutional Judiciary for 2021-2023. However, first the coronavirus pandemic, and later the Russian aggression against Ukraine caused a slowdown and even an indefinite postponement of the reformation processes in the sphere of judicial system and many other spheres of public life.

The Ministry of Finance of Ukraine and the State Court Administration of Ukraine in their reports state that 2023 financially is one of the most difficult years in the history of the judicial power of Ukraine. Indeed, due to the reduction of budget allocations for the judicial system of Ukraine, there were problems both with the salaries for the employees of court apparatuses and with the financial support of courts and even the judicial remuneration of the judges themselves. At the same time, the real needs of courts have increased both as a result of inflationary processes and as a result of the damage or destruction of certain courts due to military actions taking place on the territory of Ukraine.

The report of the Accounting Chamber regarding the results of the audit of the effectiveness of the use of budget funds for the implementation of measures to liquidate courts in Ukraine and the identification of cases of non-productive use of budget funds paid as judicial remuneration to judges, who do not administer justice, should also be taken into account.

To solve the outlined and other problems existing in the justice system, it is necessary:

1. To establish a comprehensive system of interaction of all judicial authorities with each other (internal interaction in the system of judicial authorities) and with other state authorities in the field of law-making, financing of the judicial system and budgeting, HR, etc. It will ensure a rational division of their powers, mutual control and the impossibility to abuse power or its

concentration within a certain institution. Strong Ukrainian institutions are the best illustration of the ability to build a successful country in terms of war. Improvement of the functioning of the system of interaction of judicial authorities is possible by improving national legislation in accordance with European and international standards.

2. To ensure citizens' access to justice and its proper implementation even during crisis situations, which is a necessary condition for the proper functioning of the judicial system and a criterion for its effectiveness. Accessibility covers the standards of real possibility of citizens to freely apply to courts for the protection of their rights (p. 98), and the reality of this access is the indicator of trust in the courts. It is important to develop electronic justice in Ukraine, which is one of the ways to ensure the improvement of the access to justice and the potential reduction of expenditures on logistical support for the activities of judicial authorities. The network of local courts should be also reviewed, which is important for ensuring the access to justice and effective use of limited financial resources available in the public sector of Ukraine, including for the judicial system.

3. To develop and implement effective mechanisms to overcome any manifestations of corruption in the justice system and to prevent violations of the law by the representatives of the judicial branch of power. It is about: eradication of cases of unacceptable behavior of judges that discredit the title of a judge and undermine the authority of justice; immediate resumption of consideration of disciplinary complaints against judges by the High Council of Justice; introduction of periodic integrity verification of acting judges; improvement of selection rules and the access to the profession of a judge; establishment and provision of dignified and proper conditions of payment of the employees of court apparatuses; strengthening public supervision over judges through the newly created Public Integrity Council, etc.

The resolution of these and other issues in the justice sphere is important for the national security and interests of Ukraine. The confirmation of that is holding the meeting of the National Security and Defense Council of Ukraine on June 23, 2023, where it is planned to consider the issue of overcoming manifestations of corruption in the justice system.

We believe that solving the urgent issues outlined in the article is primarily possible due to the implementation of the Anti-Corruption Strategy (for 2021-2025) and the State Anti-Corruption Program (for 2023-2025) with the emphasis on sectors important for the post-war reconstruction of Ukraine, such as construction, infrastructure, economic regulation, customs policy, anti-monopoly policy and justice.

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