

ANALYSIS OF THE ISSUES OF JUSTICE ACCESSIBILITY, EQUALITY, AND COUNTERING DISCRIMINATION IN THE LEGAL SYSTEM

ANÁLISE DAS QUESTÕES DE ACESSIBILIDADE DA JUSTIÇA, IGUALDADE E COMBATE À DISCRIMINAÇÃO NO SISTEMA JURÍDICO

HANNA POTAPCHUK*

Candidate of Law Sciences, Institute of Legislation
of the Verkhovna Rada of Ukraine, Kyiv, Ukraine.
potapchukav@gmail.com

OLEKSANDR BOIARSKY

State University of Intellectual Technologies and
Communications, Odessa, Ukraine.
al.boiarSKIY1964@gmail.com

OLHA DONCHENKO

Department of Theory of Law and Human Rights,
Faculty of Law, Yuriy Fedkovych Chernivtsi
National University, Chernivtsi, Ukraine.
olga-donchenko@ukr.net

OKSANA NAZARCHUK

Assistant Professor, PhD, Department of Civil and
Labor Law, Law Institute, Kyiv National
Economic University named after Vadym Hetman,
Kyiv, Ukraine.
lawnazarchuk@ukr.net

IVAN KUBARIEV

Professor, PhD in Law, Department # 2, Kryvyi
Rih Educational & Scientific Institute, Kryvyi Rih,
Ukraine.
kurt76@ukr.net

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Corresponding author:

Potapchukav@gmail.com



Abstract: Accessibility of justice and equality is the realization of one of the fundamental rights of a person and a citizen - the right to protect their legitimate rights and interests with the help of the most democratic and effective tool for such protection, which is justice. This fact is reflected in both international legal acts and Ukrainian legislation. However, the issue of justice accessibility for all categories and groups of the population still remains quite acute. This is quite understandable due to the complexity of the judicial system, the insufficient legal culture of the population, and, in addition, insufficient legislative support for the implementation of this constitutional right. These circumstances emphasize the relevance of scientific research in identifying and overcoming issues of justice accessibility. The main research object in this article is the social relations that arise in ensuring the constitutional principle of accessibility of justice for all individuals, legal entities, and public entities. The research subject is the legislative provisions in this area, as well as the views of contemporary Ukrainian scholars on the concept and essence of the principle of justice accessibility. The scientific novelty of this study lies in establishing the multidimensionality of this principle and its conditionality both by removing obstacles to access to justice for all categories of persons and by establishing a system of state guarantees ensuring access to justice. Also, this criterion makes it possible to assess the actual efficiency of the judicial system itself based on this criterion. The relevance of the research is determined by the fact that the judicial system plays an essential role in a democratic society. Since one of the main principles of our state is the rule of law, the judiciary should adequately fulfill its function. The judiciary is independent, and the principles enshrined in the

Constitution of Ukraine guarantee such independence. These democratic principles, on which the judicial system is built, determine the peculiarities of the legal system. The democratic nature of the justice principles lies in the fact that they ensure that justice is administered on an equal basis, only by a court, collegially, by independent judges, openly, using the state language, with the process recorded, and in full compliance with the law.

Keywords: Legal accessibility. Legal process. Procedural law. Judicial system. Protection of rights. Branches of law. Constitution of Ukraine. Constitutional justice. Legal discrimination.

Resumo: A acessibilidade da justiça e da igualdade é a concretização de um dos direitos fundamentais de uma pessoa e de um cidadão - o direito de proteger os seus direitos e interesses legítimos com a ajuda do instrumento mais democrático e eficaz para essa protecção, que é a justiça. Este facto reflecte-se tanto nos actos jurídicos internacionais como na legislação ucraniana. Contudo, a questão da acessibilidade da justiça para todas as categorias e grupos da população continua a ser bastante aguda. Isto é perfeitamente compreensível devido à complexidade do sistema judicial, à insuficiente cultura jurídica da população e, além disso, ao insuficiente apoio legislativo para a implementação deste direito constitucional. Estas circunstâncias enfatizam a relevância da investigação científica na identificação e superação de questões de acessibilidade à justiça. O principal objeto de pesquisa deste artigo são as relações sociais que surgem na garantia do princípio constitucional da acessibilidade da justiça a todas as pessoas físicas, jurídicas e entes públicos. O tema da investigação são as disposições legislativas nesta área, bem como as opiniões dos estudiosos ucranianos contemporâneos sobre o conceito e a essência do princípio da acessibilidade da justiça. A novidade científica deste estudo reside em estabelecer a multidimensionalidade deste princípio e a sua condicionalidade, tanto através da remoção de obstáculos ao acesso à justiça para todas as categorias de pessoas, como através do estabelecimento de um sistema de garantias estatais que garantem o acesso à justiça. Além disso, este critério permite avaliar a real eficiência do próprio sistema judicial com base neste critério. A relevância da investigação é determinada pelo facto de o sistema judicial desempenhar um papel essencial numa sociedade democrática. Dado que um dos princípios fundamentais do nosso Estado é o Estado de Direito, o Judiciário deve cumprir adequadamente a sua função. O poder judicial é independente e os princípios consagrados na Constituição da Ucrânia garantem essa independência. Esses princípios democráticos, sobre os quais se baseia o sistema judicial, determinam as peculiaridades do sistema jurídico. A natureza democrática dos princípios de justiça reside no facto de garantirem que a justiça é administrada em igualdade de condições, apenas por um tribunal, colegialmente, por juízes independentes, de forma aberta, utilizando a linguagem do Estado, com o processo registado e em total conformidade com a lei.

Palavras-chave: Acessibilidade legal. Processo legal. Direito processual. Sistema judicial. Protecção de direitos. Ramos do direito. Constituição da Ucrânia. justiça constitucional. Discriminação legal.

1. Introduction

The right to a fair and accessible trial includes many elements, including access to justice, which is essential. The principle of judicial accessibility originates from the Constitution of Ukraine as a fundamental principle of judicial proceedings. It guarantees every citizen the right to judicial protection of their rights and freedoms. Thus, accessibility of justice constitutes one of the foundational principles for the functioning of the state's legal system (The Constitution of Ukraine). The importance of this principle stems from its enshrining at the constitutional level. Moreover, the ongoing judicial reform in Ukraine sets the following goals: the improvement of access to justice, equality, and non-discrimination.

We note that justice accessibility and equality are necessary prerequisites for the realization of the constitutional rights of persons and legal entities since "only they can ensure the provision of unimpeded implementation of human and civil rights and freedoms." Therefore, it can be argued that the constitutionally proclaimed significance of this principle can be determined not only by the state's guarantee of the right to go to court but also by the right to a fair and impartial trial, which is aimed at protecting the rights and legitimate interests of persons, legal entities and public organizations within the legal system.

Thus, it should be noted that scientific research on issues and challenges related to the theoretical and practical aspects of justice and equality, as well as the absence of any legal discrimination, remains relevant. During the formation and development of the rule of law and the establishment of civil society in Ukraine, research on the essence of justice and equality becomes even more crucial. In this regard, the accessibility of justice is a condition for the existence of a robust and self-sufficient legal system that fully protects and upholds the rights and freedoms of persons.

2. Literature review

The issues of theoretical development and practical application of the right to access justice as a subjective element of the legal state are discussed in the studies by Barak (2003) and Cryer, Friman, Robinson, and Wilmshurst (2007). It is necessary to agree with Palyukh (2020), who notes that the concepts of "access to justice" and "justice accessibility" should be distinguished. The access should be related to the respective permission of those on whom the opportunity to seek justice to protect their rights, freedoms, and legitimate interests depends. The accessibility of justice

can be interpreted as one of the pillars of access to justice. In other words, it is the ability of any person or legal entity to use this institution freely and unhindered on equal terms to ensure their rights and legal interests.

The study by Msabila (2014) also emphasizes the issues of ensuring actual accessibility of justice in a market economy. The author highlighted the complexity of organizing the judicial process for ordinary citizens, the high cost of legal representation services on the market, and the underdevelopment of legal aid systems provided by public institutions.

According to contemporary researchers (Bernaziuk, 2018; Melzer, 2016), the essence of the constitutional principle of access to justice lies primarily in the absence of excessive, unjustified legal, and practical obstacles to legal protection. Dubinko (2019) defined the accessibility of justice through a system of guarantees that ensure access to justice regardless of one's financial and social status.

In the contemporary legal discourse, the issues of justice accessibility are often studied within the framework of constitutional justice. As rightly noted by Fleck (2014), scholars have unjustifiably overlooked the problems of implementing this constitutional principle within the legal system itself. In several scientific papers (Miroshnychenko, 2012; Vorontsov, 2015), the accessibility of justice is highlighted as a guarantee for persons with disabilities. A very peculiar opinion was expressed by Shepitko (2015), who linked the problems of access to justice to "the defective actions of the applicant who does not comply with the provisions of procedural law when applying to the court" rather than to the state of the judicial system.

At the same time, as O'Keefe (2015) correctly notes, a person's failure to comply with the rules of applying to court and the conditions for fulfilling the right is quite understandable, given the complexity and intricacy of procedural law. Moreover, an excessive formality of court judgment sometimes leads to unlawful rejection of an application, creating unreasonable obstacles to accessing legal protection.

Several authors have proposed the following solutions to the problem of ensuring access to justice for certain categories of citizens:

- to expand the list of reasons for exemption from payment of state duty when applying to a court;
- to reduce the amount of state duty when establishing a state (municipal) advocacy service offering legal services at the public expense (Bihun, 2011; Schmitt, 2012).

However, considering the current economic situation and military events in Ukraine, these proposals may be challenging to implement, although they should be considered when formulating state policies regarding equality and access to justice for all categories and groups of the population.

The accessibility of justice is also considered as a criterion for the effectiveness of the court's procedural activities. For instance, Kokhanska (2018) and Koliukh (2017) suggest considering access to justice as a criterion for the effectiveness of the court's procedural activities in considering and resolving civil disputes. This criterion includes the territorial accessibility of courts and the affordable costs of trials.

Thus, the essence of the principle of accessibility of justice is explored in modern scientific doctrine from different perspectives:

- the absence of obstacles in accessing justice.
- a set of state guarantees ensuring access to justice.
- a criterion for evaluating the judicial system's performance based on territorial accessibility and reasonable cost of litigation.

3. Aims

This article aims to study the theoretical background of the right to ensure general legal equality, non-discrimination, and access to justice as a fundamental equitable right of citizens in the Ukrainian human rights system. According to the aim of the article, we highlight the main goals of the study, namely:

- a) analysis of the content of the right to access to justice, which includes the following components according to the legal literature:
- b) identification of the formal-legal group associated with recognizing the abovementioned right and its implementation within the framework of positive law.
- c) determination of the substantive justice component linked to the normative-legal establishment of this right and the corresponding legal obligations.
- d) identification of the procedural components that regulate the procedure for exercising this right and the procedure for fulfilling the corresponding obligations.

4. Methods

The current research is based on the following set of methodological approaches and legal components:

1. The methodological approach of the general mechanism of law. We perceive accessibility to justice as a mechanism that enables overcoming inequality and legal discrimination barriers. This mechanism cannot exist in isolation from the right to judicial protection. On the contrary, it is an integral component of the law under consideration. Defining accessibility to justice (the right to access to justice) as an element of the right to judicial protection is methodologically justified, at least because each constitutional right corresponds to specific obligations of the state to ensure its enforcement. The Constitutional Court of Ukraine emphasizes that as a state governed by the rule of law, Ukraine is obliged to ensure the adequate protection of human and civil rights and freedoms through a justice mechanism that meets the requirements of justice. This mechanism is based on legally established criteria that determine in a normative form in which court and under which procedure a particular case is to be considered. It allows the court (a judge), the parties, other participants, and other stakeholders to avoid legal uncertainty in this matter.

2. An organizational approach to accessibility of justice. The essence of this approach is to consider access to justice through the prism of organizational and technical aspects. Sometimes, such aspects of access to justice should be given priority. This approach emphasizes the literal meaning of the word "accessible." In addition, among the key conditions for justice accessibility are the existence of a secured right to apply to the court according to a clearly established procedure that does not allow for the biased application of the law and even the court's proximity to the population.

3. The procedural approach to accessibility of justice. The issues of accessibility to justice are examined through the prism of specific procedural norms, institutions, and stages of litigation. Access to justice represents a rule whereby any interested person has the right, per the law, to seek the protection of rights and legitimate interests and defend them in the process.

4. The institutionalization of law. The accessibility of justice means the existence of institutional and procedural guarantees that ensure the right to receive fair justice. These guarantees form both the theoretical concept and the internal content of the right to judicial protection. For the accessibility of justice, it is crucial to analyze the procedural legislation in detail to ensure that it ensures access to justice. However, it is even more important to analyze the capabilities of a particular citizen involved in the judicial process. It is relevant to recall M. Cappelletti's "Copernican Revolution," which turned the study of procedural law towards a specific person.

5. Results

The topic of judicial accessibility is one of the most discussed in legal literature. The issues of legal accessibility have been addressed in the works of many renowned foreign and Ukrainian legal scholars. In this regard, the accessibility of justice should be considered in terms of ensuring the indispensable procedural rights of individuals involved in a case, which the legal system should facilitate. Therefore, the accessibility of justice should be viewed in terms of ease of understanding the principles of legal proceedings and the availability of procedural and technical means in the administration of justice.

5.1 International legal experience in justice accessibility, equality, and countering a discrimination

It should be noted that in international legal instruments, the legal categories of "access to justice," "rights to access justice," "access to the courts," "right to access justice mechanisms," and "right to a fair judicial trial" have been generally associated with the ability to have a case heard by a court and the specific procedural rights belonging to the participants in the process. However, all these terms can be collectively understood as the essence of "effective means of legal protection." The use of different terms to denote a single concept in international legal instruments is attributed to the fact that all the mentioned categories are genuinely united by their common purpose, namely:

- to obtain judicial protection as a means of legal defense for persons whose rights and legitimate interests have been violated or restricted;
- to access justice mechanisms is a possible means of obtaining the protection they seek.

At the international legal level, a person who has suffered from an unlawful act that violates their rights, legitimate interests, honor, and dignity is commonly referred to as a "victim of a crime." Many international legal acts contain certain aspects that are, in one way or another, related to the protection of victims of crime and the need to provide them with assistance. Altogether, this allows us to state that the basis for the further national formation of the victim of a crime status is being established at the international level (Public Administration, 2022).

There are also proposals in the literature to supplement the mechanism of implementing access to justice, which traditionally includes an independent judicial system and a socially oriented institution of legal advisers supported by public authorities. The latter consists of both its

organized part - the advocacy system and its unorganized part - independent legal advisers. The third element is the insurance of court fees and expenses that may be charged to citizens and legal entities for obtaining qualified legal assistance. (Charter of Fundamental Rights of the European Union).

In this case, we believe there is a substitution of concepts between the "element of the accessibility to the justice system" and the "means of achieving accessibility to justice." Following this logic, the system of access to justice elements can be supplemented with such elements as "service" since the provision of legal aid is recognized as a legal service. Also, it can be supplemented with the element "public service" since justice is provided as part of the public service performed by officials of the state judiciary, etc. In addition, an insurance policy that provides for additional expenses for insurers' services incurred before the court case is resolved does not facilitate access to justice but rather even delays it (Universal Declaration of Human Rights).

In addition to the scientific community, the issue of access to justice has repeatedly become the subject of public attention. For example, in the context of the principle of access to justice, the Constitutional Court of Ukraine (CCU) has repeatedly addressed various issues arising in judicial practice. For example, concerning guarantees of the crime victims' rights, the court formulated a legal position on the right of persons found to be crime victims to access justice. It includes not only the right to approach the court but also guarantees that allow for its full realization and ensure adequate recovery of rights through the justice system that meets fair and equal requirements (Administration of justice: how to contribute to the security of Ukrainian courts in wartime).

5.2 Principles of justice accessibility in the legal state

The principle of justice accessibility has also been the basis for assessing specific aspects of territorial jurisdiction regulation. The Constitutional Court of Ukraine (CCU) emphasized the ambiguity in determining the territorial jurisdiction of complaints against decisions and actions (or inaction) of preliminary investigation bodies. It created conditions for violating the constitutional principle of equality in exercising the right to access justice in challenging such decisions and actions. Guided by the principle of justice accessibility, the Constitutional Court also emphasized the importance of the temporal aspects of realizing the right to judicial protection, particularly in the sphere of electoral rights.

The CCU also pointed out the necessity of ensuring accurate access to justice for people whose reputation, honor, dignity, and good name have been harmed by disseminating false

information. In the constitutional aspect considered here, the importance of the principle of justice accessibility is determined by the fact that, in our opinion, it should be implemented for the benefit of actual and, no less important, effective protection of the rights of all persons and legal entities without any exception. In addition, it is necessary to find ways to ensure the entire possible fulfillment of the aims and goals of justice.

Regarding the mentioned issues of justice accessibility, it is worth noting that according to the assessment of some experts, the level of justice accessibility in Ukraine is even higher than in foreign countries. Moreover, it is also emphasized that the cost of legal cases in Ukrainian courts is cheaper than abroad, and the speed of case handling is higher.

Alongside the principles of independence and the effective functioning of the judicial authority, the principle of free access to justice constitutes the basis of the modern concept of fair or proper justice. The international community recognized the idea of unhindered access to the court as one of the fundamental principles in 1948 when the United Nations General Assembly adopted the Universal Declaration of Human Rights. Article 10 of this document contains the fundamental elements of the right to access justice: "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in determining their rights and obligations and of any criminal charge against them" (Universal Declaration of Human Rights).

The constitutions of some states secure the right of access to justice. Concerning this right in Ukraine, it should be noted that despite the absence of its direct enshrinement in the Constitution of Ukraine, it refers to the right to judicial protection. The Constitution of Ukraine contains requirements that guarantee citizens accessible justice and judicial protection (Articles 8, 55, and 64). Thus, according to the Constitution of Ukraine, its provisions are norms of direct action. The right to approach the court to protect the constitutional rights and freedoms of a person and citizen is guaranteed by part 3 of Article 8 of the Constitution of Ukraine.

According to the Constitution of Ukraine, the courts protect human and civil rights and freedoms (Article 55). Within the framework of this right, enshrined in the Constitution of Ukraine, the right to access justice can be considered as one of its components. Specifically, it is stipulated that recourse to the court for the protection of constitutional rights and freedoms of persons shall be ensured directly based on the Constitution of Ukraine (Part 3 of Article 8). Additionally, the Constitution of Ukraine establishes provisions for protecting the rights and freedoms of people by the court. It ensures everyone's right to appeal to the court against decisions, actions, or omissions of state authorities, local self-government bodies, officials, and public servants (Part 1 of Article 55 of the Constitution of Ukraine) (The Constitution of Ukraine).

The Constitution of Ukraine also sets forth the right of everyone, after exhausting all national legal means, to apply for protection of their rights and freedoms to the relevant international judicial institutions or bodies of international organizations where Ukraine is a member or a participant (Part 4 of Article 55 of the Constitution of Ukraine) (The Constitution of Ukraine). The right to access justice should be considered in a dialectical relation to other equitable rights enshrined in the State Constitution. The realization and protection of the right to life, dignity, freedom, security of a person, security of residence, etc., is impossible without the right to access justice (The concept of improving the judiciary to establish a fair court in Ukraine in accordance with European standards).

Thus, the right to access justice as an equitable right of Ukrainian citizens is closely linked to the rights to judicial protection and recourse, compensation for material and moral damages at the expense of the state or local self-government bodies, legal assistance, presumption of innocence, and defense.

Equitable right in legal doctrine is regarded as the established and guaranteed ability by the state through the means of law (legal principles and norms) to act. It enables the subject to behave accordingly, demand appropriate behavior from others, enjoy the specified social good, and, if necessary, seek protection from competent state authorities to satisfy personal interests and needs. This circumstance necessitates precise constitutional regulation, providing the basis for further consolidation and specification of this right only at the level of other sectoral legislation (Principles of judicial procedure in Ukraine and problems of their implementation by courts, 2022).

The need for addressing issues of justice accessibility, equality, and countering discrimination in the legal system, according to Shepitko (2018), is determined by the general nature of constitutional regulation of fundamental human rights and freedoms, as well as the rights of other subjects of legal relations. This would appropriately impose an obligation on the state to ensure all conditions for the realization of the right to access justice, clearly and unambiguously designating it as a fundamental constitutional right, subject to constitutional regulation and specification in other areas of law. In addition, the rules governing the right to access justice are contained in the criminal procedure and other branches of law, as well as in other laws and regulations (Criminal Code of Ukraine). The right to access justice, belonging to the category of fundamental rights, objectively requires procedural guarantees that formalize and organize the mechanism of its realization and legal protection.

The realization of the right to access justice is related to ensuring the territorial proximity of the courts to the citizens. The concept of improving the judicial system to establish fair justice

in Ukraine following European standards, approved by the Decree of the President of Ukraine on May 10, 2006, stipulates that the territorial organization of local and appellate courts should not be strictly tied to the administrative-territorial division. They should be determined based on specific fair criteria, aiming to ensure that local and appellate courts are close to the people and, at the same time, independent from local authorities. The jurisdiction of each court at the same level can be extended to a territory with an approximately equal population (Recommendation No. (94) 12 "Independence, effectiveness and role of judges"). The location of each court should be determined based on transportation infrastructure, and the names of local and appellate courts should use the name of the settlement where they are located.

Article 133 of the Constitution of Ukraine enshrines the territorial principle in the judiciary. This principle means that the system of general jurisdiction courts should be consistent with the Ukrainian administrative and territorial structure (The Constitution of Ukraine).

The Law of Ukraine "On the Judicial System and the Status of Judges" in Part 1 of Article 17 has established a technically simple solution to this issue. The location and status of the court are determined by the principle of its territory, i.e., the administrative and territorial structure (On the Judicial System and the Status of Judges, the Law of Ukraine).

5.3 The role of the judiciary in ensuring justice accessibility, equality, and countering discrimination

According to Yevhrafova (2012), territoriality refers to the branching out of lower-level courts in the general jurisdiction system (local and appellate). It also ensures the territorial delimitation of the jurisdiction of homogeneous courts, i.e., defines the boundaries of a judicial district. Therefore, each local and appellate court has its own territorial jurisdiction, which extends the court's competence to legal relations that have arisen and exist within a specific territory. This is an essential guarantee for resolving judicial disputes within reasonable timeframes, given the complexity of legal relations and the increasing number of legal conflicts. If the entire judicial system were centralized and concentrated in only one place, then justice would be impossibly inaccessible to the majority of the population in such a large country as Ukraine (On the Strategy for the Development of the Justice System and Constitutional Judiciary for 2021-2023).

Another critical aspect of the territorial organization of the judicial system, which can significantly affect access to justice, is the convenience of court locations throughout the country. The general rule now is that judicial territories (precincts, districts, regions, etc.) should be located proportionally near the corresponding population. It means that there should not be an excessive

concentration of courts in a specific area, while at the same time, there should not be territories without any courts at all (The Verkhovna Rada of Ukraine, 2015: On ensuring the right to a fair trial).

The principle of territorial proximity of the court implies that courts should be geographically located close to transportation routes in convenient locations for the free access of parties to the case, third parties, and witnesses. An exception to this rule traditionally applies to the capital, where a large number of judicial bodies operate. In Kyiv, there is the Supreme Court of Ukraine, higher specialized courts, as well as the Constitutional Court of Ukraine (Bulkat, 2019).

Access to justice in criminal cases involves the creation of a specific procedural regime - a system of appropriate procedural means that enables stakeholders to be aware of their rights to participate in the case (Khotynska-Nor, 2016) actively. The specificity of judicial protection of human rights in criminal proceedings, according to Huyvan (2019), is primarily determined by the peculiarities of legal regulation concerning access to the court during criminal cases. The importance of this legal position is confirmed, in particular, by its recognition of the right to judicial protection and the right to a competent court as the basics for the organization of judicial authority under the Law of Ukraine "On Judicial System and Status of Judges."

The right to access justice is closely linked to the principle of "the right to a fair trial," expressed in the International Covenant on Civil and Political Rights, specifically in Article 14: "Everyone shall be entitled to a fair and public hearing by a competent, independent, and impartial tribunal established by law in the determination of their rights and obligations in any criminal charge against them" (On the Constitutional Court of Ukraine: the Law of Ukraine).

The Law of Ukraine "On Judicial System and Status of Judges" of July 7, 2010, in Part 3, Article 3, establishes provisions stating that "the judicial system ensures the accessibility of justice for every person in the manner prescribed by the Constitution and laws of Ukraine." This document also guarantees the protection of every person's rights, freedoms, and legitimate interests by an independent and impartial court established per the law (Part 1, Article 7, Law of Ukraine "On Judicial System and Status of Judges") (On the Judicial System and the Status of Judges, the Law of Ukraine).

It seems that the ideas of justice accessibility and professionalization as modern vectors of the arbitration procedural law development do not exist for no reason. Instead, they fulfill the general task of transferring the scientific understanding of justice in economic disputes from one qualitative form to another. In turn, this understanding aims to solve the problems of developing legislation and its application.

Thus, the arbitration procedural legislation faces many conceptual and profound questions that can be explicitly considered through the prism of the interrelation between the vectors of professionalization and ensuring justice accessibility (Guidelines on the role of court-appointed experts in judicial proceedings of the Council of Europe's Member States).

Since professionalization implies effective interaction between the court and the stakeholders on the case matters at hand and their joint responsibility for the outcome of the dispute, this raises the question of ensuring the possibility of such interaction during the case trial without summoning the parties:

- differentiation of proceedings at trial, determination of cases categories, consideration of which requires their substantive specificity and peculiarities of procedural and legal regulation;
- identifying the specifics of the sides' evidentiary activities, in particular, with regard to the professionalization of the legal process and the need to ensure access to justice;
- ensuring reasonable terms of court trials, based, on the one hand, on the need for responsible use of procedural rights by the parties' attorneys and, on the other hand, on the need to ensure access to justice;
- prospects for pre-trial and out-of-court dispute resolution, bearing in mind that representatives of the conflicting parties have professional qualifications and that active interaction with the court is not required for all cases that are brought before the courts.

In other words, if the parties are sufficiently qualified, is it always necessary to have access to the judicial mechanism to resolve their conflict?

6. Discussion

The tendency to simplify the procedures for handling cases has become common in most democratic states, and it is also typical for the Ukrainian legal system. The procedural legislation mainly demonstrates the trend of introducing simplified procedures and streamlining specific procedural actions. For instance, one such example is the prosecutor's refusal to press charges if, due to a court hearing, the prosecutor concludes that the evidence presented does not substantiate the accusations against the defendant. In such cases, the court, by its ruling (decision), terminates the case if the victim does not wish to exercise the right to demand the continuation of the trial and independently supports the accusation.

The Civil Procedure Code of March 18, 2004, introduced a trial by absentia in case the defendant fails to appear (Chapter 8, Section III) and summary proceedings, which involve

satisfying documentarily substantiated undisputed monetary claims (Section II). Access to justice is associated with ensuring the right to a fair hearing and resolving this issue within a reasonable time by an independent and impartial court established by law. This formulation simultaneously encompasses two aspects of the right to a fair judicial hearing: institutional and procedural.

Thus, although in modern theoretical jurisprudence, the right to access justice, equality, and countering discrimination in the legal system has become an axiom, it, like any rule, must be legally established. The right to access justice is in line with the general provisions of the Constitution of Ukraine and, although not directly enshrined in it, is *de facto*. The Constitution of Ukraine refers to the right to judicial protection. In addition, it contains the requirements that guarantee access to justice and judicial protection for the citizens of Ukraine.

7. Conclusion

The main conclusion of this study shows that the principle of access to justice is comprehensive. It involves both the elimination of obstacles in access to justice for all categories of citizens and the establishment of a system of state guarantees that ensure access to justice. Also, this criterion allows for assessing the actual efficacy of the judicial system itself. These factors lead to the need for a comprehensive and in-depth study of this principle both in separate branches of law and in legal theory in general.

It has been proven that an essential feature of the professionalization of the arbitration process, along with the substantive aspect of justice accessibility, is the shared responsibility of the court and the parties for the outcome of the case. The outcome of the dispute and whether justice will be genuinely accessible depends not only on the court but also on the stakeholders and, in some aspects, especially on the parties. The court and the parties do not exist separately in the process, and an interdisciplinary analysis of the concept of "professionalization" allows us to argue that the critical aspect of this category is substantive interaction between the court and the parties, which ensures accessibility to justice by providing real, rather than illusory, judicial protection. It is possible to conclude that in the context of the professionalization of the arbitration process, justice accessibility is ensured by the joint responsibility of the court and the parties for the outcome of the case. In particular, it means that the parties have to cooperate effectively on issues arising during the trial. In fact, the joint responsibility of the court and the participants for the case outcome implies their joint responsibility for ensuring justice accessibility.

Professionalization in the legal state aims to ensure justice accessibility, mainly through effective interaction between the court and the parties on the case issues. Considerations that "justice is less accessible in a professional court process and more accessible in an amateur one" are seen as obsolete. The concepts of justice accessibility and judicial professionalization can hardly be seen as contradictory. Instead, these concepts are closely interrelated and closely interacting.

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