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TRANSPARENCY AND OPENNESS OF THE JUDICIAL PROCESS AS COMPONENTS OF ACCESS TO JUSTICE IN CIVIL CASES

TRANSPARÊNCIA E ABERTURA DO PROCESSO JUDICIAL COMO COMPONENTES DO ACESSO À JUSTIÇA EM CASOS CIVIS

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Abstract: The scientific publication is devoted to the study of publicity and openness of the judicial process as components of access to justice in cases considered in civil proceedings. The methodology of research, the basis of which was a set of general scientific and special methods of cognition of legal phenomena - dialectical, systemic, systemically structural, formal-dogmatic, hermeneutical and method of factor analysis. The key role of the decisions of the European Court of Human Rights in the process of application, development and implementation of international standards of publicity and openness of the judicial process as part of fair trial is emphasized. The essence and content of the principle of publicity and openness of the trial, as well as its relationship with the basic functional principles of civil proceedings – legality, publicity, adversarial and dispositivity, have been clarified. It is concluded that the implementation of the concept of electronic legal proceedings under martial law in Ukraine requires a comprehensive, humanistic approach to the introduction of electronic document management, the use of modern digital technologies in the implementation of correspondence with participants in the civil process and procedural actions with their participation, simplification of the transfer of applications, complaints, petitions through the system of electronic cases, creating conditions for preventing subjective influence on electronic legal proceedings.

Keywords: Civil proceedings. Publicity. Openness of proceedings. The right to a fair trial. International standards. Principles of criminal proceedings. Electronic proceedings.

Resumo: A publicação científica é dedicada ao estudo da publicidade e da abertura do processo judicial como componentes do acesso à justiça em casos considerados em processos civis. A metodologia da pesquisa, cuja base foi um conjunto de métodos científicos gerais e especiais de cognição de fenômenos jurídicos - dialético, sistêmico, estrutural sistêmico, formal-dogmático, hermenêutico e método de análise fatorial. O papel fundamental das decisões da Corte Europeia de Direitos Humanos no processo de aplicação, desenvolvimento e implementação de padrões internacionais de publicidade e abertura do processo judicial como parte de um julgamento justo é enfatizado. A essência e o conteúdo do princípio de publicidade e abertura do julgamento, bem como sua relação com os princípios funcionais básicos dos processos civis - legalidade, publicidade, contraditório e disposição - foram esclarecidos. Conclui-se que a implementação do conceito de processos judiciais eletrônicos sob a lei marcial na Ucrânia requer uma abordagem abrangente e humanística para a introdução do gerenciamento eletrônico de documentos, o uso de tecnologias digitais modernas na implementação de correspondência com os participantes do processo civil e ações processuais com a participação deles, simplificação da transferência de solicitações, reclamações e petições por meio do sistema de processos eletrônicos, criando condições para evitar a influência subjetiva nos processos judiciais eletrônicos.

Palavras-chave: Processo civil. Publicidade. Abertura dos procedimentos. O direito a um julgamento justo. Normas internacionais. Princípios de processos criminais. Procedimentos eletrônicos.

1. Introduction

Ensuring the fulfillment of the goals and objectives of civil proceedings is primarily entrusted to the state and is implemented through the court as a state body that acts as the only measure of justice in a legal state. Effective civil justice is possible only in a judicial process that would provide for the active legal personality of the court, harmoniously combined with the procedural rights and obligations of the parties. Justice in civil proceedings can be considered to be realized when a judge, on the basis of an assessment of a particular civil case, makes a legal, reasonable and fair decision. The achievement of this goal is ensured by the consolidation in the rules of civil procedural law of legal means designed to create at all stages of the process favorable conditions for achieving the objectives of the proceedings. The court should ensure the speed of the process while respecting the rights of the parties and the principle of their equality (Polishchuk, 2022).

The right of a person and a citizen to judicial protection is a constitutional right of the world's leading democracies, and the level of guarantee of a person’s rights in civil proceedings and methods of their implementation must meet the best international standards of justice, that is, a system of legal norms and principles that guarantee a person the same opportunities to use all material and procedural rights during the trial. An important role in the realization of equal opportunities in civil proceedings is given to the principle of publicity and openness of judicial proceedings, which is part of the fundamental and multidimensional right to a fair trial.

The conditions of martial law, in which Ukraine has been for quite a long time, greatly affect all legal relations and institutions in the country. During the period of martial law, in accordance with Article 10 of the Law of Ukraine “On the Legal Regime of Martial Law”, the powers of the courts cannot be terminated, and part two of Article 26 of this Law provides that the reduction or acceleration of any form of legal proceedings is prohibited (On the legal regime of martial law, 2015). At the same time, the judicial branch of government was also affected by the war and its consequences, which made its own adjustments to the processes of judicial proceedings.

The state policy aimed at reforming the civil procedural legislation and harmonizing it with the requirements of the present and world standards is reflected in a number of normative legal acts, in particular in the Civil Procedure Code of Ukraine, the content of

which has undergone significant changes on the basis of the Law of Ukraine No. 2147-VIII of 03.10.2017 (On amendments to the Commercial Procedure Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine and other legislative acts, 2017).

In our opinion, most of the new provisions of civil procedural legislation have a positive impact on judicial activity to protect violated, unrecognized or disputed rights, freedoms, interests of persons involved in the case, precisely as a result of increasing the effectiveness of judicial protection and active activity of the court within the limits of discretionary powers. At the same time, according to statistics, Ukraine annually consistently ranks among the top five leading states in terms of the number of appeals to the European Court of Human Rights (hereinafter – ECHR). At the same time, almost half of the decisions relate to the violation of the right to a fair trial (Boyko, 2020), the share of which is a violation of the right to publicity and openness of the trial.

Thus, the relevance of the chosen topic of the scientific article is due to the need to clarify the theoretical and applied aspects of compliance with the principle of publicity and openness of judicial proceedings as part of access to justice in cases considered in civil proceedings under martial law in Ukraine.

2. Methodology of the study

The methodology for studying the principle of publicity and openness of civil litigation and its implementation in modern conditions should be considered as a set of methods and means of theoretical and empirical tools, thanks to which it becomes possible to reveal the content of the phenomenon under study and confirm the reliability of the results obtained. In accordance with the goal, the basis of the research methodology was general scientific and special methods of knowing legal phenomena. In particular, the use of the dialectical method of studying the publicity and openness of the trial contributed to the definition of the content, social purpose and interpretation of the ECHR, allowing to formulate recommendations for improving its implementation, including under special legal regimes. The system method was used to determine the place of this principle in the structure of the civility process and to clarify its connections with other principles of civil proceedings. Systemically, the structural method contributed to obtaining diverse information on the case law of the ECHR in the context of the subject of the study. The formal dogmatic method

was used in the formation of the conceptual apparatus of research, in particular in the interpretation of such legal categories as "publicity", "openness", "access to justice", "international standards of justice" and their relationship with the concept of "principles". The hermeneutical method contributed to a more accurate interpretation of the provisions of civil procedural legislation regulating the essence of publicity and openness of the trial as part of access to justice. The use of the method of factor analysis – to identify and investigate factors that affect the state of implementation of the provisions of civil procedural legislation, reflecting the essence of publicity and openness of the judicial process, access to it by society.

3. Analysis of recent research

The modern legal doctrine is characterized by many scientific studies devoted to the study of the features of vowel and open litigation as part of a fair trial. Paying tribute to the contribution of scientists to the development of these problems, the ideas, concepts and proposals of which became the basis for individual conclusions made by us in this scientific article, it should be noted that in modern legal science there are not enough scientific works devoted to the analysis of the effectiveness and effectiveness of the updated civil legal legislation precisely in the conditions of special legal regimes. In view of this, the article is aimed at developing theoretical provisions, scientific proposals and recommendations aimed at improving the provisions of civil procedural legislation and the practice of its application and finding out their compliance with such principles of civil proceedings as publicity and openness of judicial proceedings.

4. Results and discussion

4.1 The role of international standards in ensuring fair trial

The judicial system is one of the important tools for implementing the main legal guidelines of the state. However, only the judicial system that meets modern legal realities, the requirements of public life, takes into account the achievements of modern legal science and acts in accordance with the international standards of justice developed by the world community can be effective. The current state of development of national civil justice systems is characterized by an increasing influence of the ideas of accessibility and effectiveness of justice in civil cases and requires harmonization of national systems with international standards of fair justice. This necessitates rethinking certain classical provisions

of the doctrine of civil procedural law in order to correspond to modern realities. Improving the efficiency of justice is one of the priority areas of strategic development in many countries. In Ukraine, for this purpose, a judicial reform was launched, the purpose of which is the formation of such a judicial system that will meet the standards and best practices of the European Union, will work productively, in a coordinated manner, promptly and, as a result, effectively (On the Strategy for Reforming the Judiciary, Justice and Related Legal Institutions for 2015-2020, 2015).

In terms of conceptual reform of national legislation, the issue of judicial protection of human rights, freedoms and legitimate interests are in constant view among international institutions, lawyers – scientists and practitioners, as well as civil society. At the same time, the International Standards of Accessibility of Justice and Fair Trial are of great importance in the context of the crisis caused by the ongoing war in Ukraine, especially taking into account Ukraine's international obligations in accordance with paragraph 1 of Art. 6 of the European Convention on Human Rights (continue to use – Convention) (Convention for the protection of human rights and fundamental freedoms, 1950) and Ukraine's status of a candidate country for membership in the European Union. It was thanks to the Convention that the right to a fair trial was conceptualized, on the basis of which the ECHR makes its interpretative decisions. The direct application of the case-law decisions of this court as sources of law strengthens the regulatory capabilities of international legal acts (primarily the ECHR), makes their prescriptions more "flexible", adapted to specific life situations.

The requirement of transparency and openness of the judicial process refers to those rights that are directly provided for in the text of the Convention, unlike many other rights, the appearance of which is associated with an expanded interpretation of the norms of the Convention by the European Court. The ECHR in its decisions has repeatedly pointed out that ensuring the openness of the trial is a fundamental principle enshrined in paragraph 1 of Art. 6 of the Convention. It is publicity that protects the parties from the secret administration of justice in the absence of close attention of society (paragraph 27 of the case "Ripan v. Austria") (2010) (paragraph 55 of the case "Luchaninov v. Ukraine") (2011). There must be a reasonable balance, the achievement that the publicity of the trial was not embodied at the cost of violations of other principles of justice (Case of Pretto and Others v. Italy, 1983), the legislative systems and judicial practice of the member states of the Council of Europe have certain differences regarding the scope and ways of implementing this principle, both in relation to the holding of hearings and the announcement of court

decisions.

At the same time, the ECHR recognizes the need in some cases to legitimately limit the openness of the process in order, for example, to ensure the safety of witnesses or non-disclosure of information about them or to facilitate the free exchange of information and opinions in the conduct of legal proceedings (Case of Campbell and Fell v. The United Kingdom, 1984). Although it should be emphasized here that the ECHR is extremely scrupulous about the use of the "proportionality test" in assessing the validity of the arguments of the national courts that decided to hold closed hearings.

Currently, the Ukrainian judicial system faces a number of organizational and procedural problems, such as: changing territorial jurisdiction and the movement of courts and judges; transfer of cases from one court to another; ensuring access to the State Register of Court Decisions; communication of the court with participants in legal proceedings; participation of subjects of civil proceedings in an adversarial hearing, etc.

The presence of these problems caused by military actions indicates the expediency of further development of the sphere of civil justice from the point of view of international standards of due process, actualizes the development of effective mechanisms for ensuring publicity and openness of the judicial process within the framework of adaptation of Ukrainian legislation to the legislation of the European Union.

4.2 The essence of publicity and openness of the trial in civil proceedings

Civil procedural law is generally considered public, as it is one of the forms of administration of justice in civil cases through which the judiciary manifests itself. The public-legal nature of civil procedural law is also evidenced by the state interest in the correct and timely administration of justice, the vesting of the court with power, the normative regulation of the behavior of participants in the trial, and the obligation of judicial acts. On the other hand, civil procedural law contains private law principles, because the purpose of civil process is to protect rights and interests in material relations, that is, private rights and interests. This is manifested in the principles of competition and dispositivity. In the course of civil proceedings, the need of the individual for judicial protection of his rights and legitimate interests is satisfied, which corresponds to the characteristics of private law.

To characterize the content of justice, the general social and procedural aspects of the judicial form of protection of civil rights should be taken into account simultaneously. This will provide an opportunity to characterize the essence of civil procedural legislation, the

effectiveness of its procedures, the democratism of judicial protection, subordinated to the idea of the need to recognize and protect the fundamental rights, freedoms, interests of an individual, rights and interests of a legal entity, interests of society and the state (Getmantsev, Kondratieva, Ostafiychuk, Paskar, Tatulych, 2022).

The content of the fairness of a court decision has a direct connection with the rule of law and is revealed primarily through the prism of proper judicial procedure and public consideration of the case. In this context, we mean the consideration of cases by an independent and impartial court, formed on the basis of the law, in a reasonable time and in the conditions of the public administration of justice. Restrictions on publicity may be caused by an understanding of morality, public order, national security, the interests of minors, the protection of private life, and under certain circumstances, the interests of justice (Yatsina, 2023).

Transparency and openness of information about the case are one of the basic principles of legal proceedings in Ukraine. According to Part 1 of Art. 8 of the Civil Procedure Code of Ukraine, no one can be deprived of the right to information about the date, time and place of consideration of his case or limited in the right to receive oral or written information in court about the results of the consideration of his court case (Civil Procedure Code of Ukraine, 2004).

Glasnost should be understood as an opportunity to freely, voluntarily, without any pressure to express their opinions on a civil case, which is considered and decided by the court. The procedural principle of publicity contains provisions that are addressed to the court and to the participants in the trial regarding the conduct of the court session in open or closed mode. The main element of this framework is the open procedure for holding a court hearing by a court. Publicity is most fully disclosed in open court. Openness means the perception in the trial of the circumstances of the case and evidence personally by the judge (or court), participants in the trial, present in the courtroom because of the opportunity to attend it personally and the ability to positively influence it. Glasnost and openness are interconnected and complement each other. Openness primarily characterizes access to information in court, and publicity is its assessment, which can be expressed in oral or written forms.

Transparency and openness are considered as a kind of control of society over the activities of the judiciary. This component of fair trial in civil proceedings makes it possible: to be present at it to persons who are not participants in the trial, regardless of their purpose

of such participation, age and lack of obligation in court to find out the reasons for their presence at the hearing; participants of the trial and persons present at the open court session, representatives of the media to take photographs, video and audio recording using special portable devices, it is allowed to broadcast the court session without a separate permission of the court, taking into account the restrictions established by law.

This principle is also characterized by other provisions of the Civil Procedure Code of Ukraine, in particular, 1) holding a closed, in whole or in part, court hearing is allowed by the court in cases and on conditions determined by parts 7, 9-12 of Art. 7 of the Civil Procedure Code of Ukraine, and is held with the participation of only participants in the case; if the participants in the case participate in an open court session via videoconference, then the course of the court session on the Internet is mandatory; 2) the pronouncement of a judgment, full or abbreviated, occurs in public in all cases, when the court session was held openly, with fixation by representatives of the media through photography, video recording, broadcast on radio or television, on the Internet, and if the hearing was held behind closed doors, the introductory and operative parts of the decision are publicly announced, if they do not contain information about which a closed court session was held; 3) the publication of a court decision in the Unified State Register of Court Decisions does not cancel the court's obligation to issue copies of court decisions to participants in the case or send them if they were not present at the time of its announcement; 4) requirements for publicity and openness apply to cases when the court decides to leave the claim without consideration or close the proceedings; 5) the obligation of the court to notify the participants of the case about the day, time, place of consideration of the case and cannot be limited in the ability to obtain information about the results of the consideration of their case; 6) every person who is not a party to the case has the right to access to court decisions in accordance with the Law of Ukraine "On Access to Court Decisions"; 7) persons who did not participate in the case, if the court decided on their rights and obligations and in the case of filing an appeal or cassation appeal against the relevant court decision, have the right to familiarize themselves with the materials of the court case, make extracts from them, take copies in the manner prescribed by civil procedural legislation; 8) information on the court considering the case, regarding the participants in the case and the subject of the claim, the date of receipt of the statement of claim (complaints) or any other statement or motion in the case, measures taken to secure the claim and (or) evidence, the stage of consideration of the case, the place, date and time of the trial, the movement of the case from one court to another is open and

published on the official web portal of the judiciary of Ukraine (Civil Procedure Code of Ukraine, 2004).

It should be noted that the publicity of the civil process is associated not only with the resolution of the substantive dispute, but also with all issues that are related to the civil case and in the procedural form require their resolution at all stages of the civil process. Most fully, it is carried out in an open trial through full fixation of the trial of civil cases by technical means, both officially and by any person, public announcement of decisions and court rulings.

4.3 Application of digital technologies in ensuring vowel and open civil proceedings

At present, the implementation of civil proceedings in the conditions of war in Ukraine is limited, taking into account the peculiarities of the security situation in certain territories of the country. In this regard, there are objective difficulties in realizing the right of citizens to a fair trial. The urgent measures taken at the state level to optimize the implementation of legal proceedings are aimed at developing and implementing certain means to accelerate or simplify the consideration and resolution of civil cases by courts. Such specially developed methods include the implementation of simplified procedures, informing the participants in the process, digitalization of individual procedures, the introduction of shortened terms for assessing cases, and more. A number of changes were also made to the normative legal acts to ensure the normal functioning of the judiciary in Ukraine under martial law (Vladykin, Belousova, Kisil, 2023). Thus, there is a need to determine the role of digital technologies in the context of ensuring the rights of citizens to access to justice, taking into account the peculiarities of hostilities.

The impact of martial law on civil proceedings is characterized by theoretical, legal and organizational-procedural changes that are necessary for the normal operation of the judicial system of Ukraine during hostilities. First of all, they are due to the fact that some of the ships are in the temporarily occupied territories or the area where active hostilities are conducted. In addition, civil proceedings are affected by the fact that some participants in the trial cannot appear in court, for example, in connection with being part of the Armed Forces of Ukraine or other military formations formed in accordance with the law, transferred to martial law or involved in the anti-terrorist operation. The current Civil Procedure Code of Ukraine provides mechanisms for resolving such issues that were formed

before the introduction of martial law in Ukraine (Civil Procedure Code of Ukraine, 2004).

Under a special legal regime, there is a need to ensure access to justice using digital technologies. One of such approaches is the possibility of holding a court hearing via videoconference, which has become especially relevant during the fight against COVID-19. Accordingly, the use of such technology makes it possible to enable the participants in the case to participate in its consideration remotely. The State Judicial Administration has developed a procedure for conducting video conferencing during a court hearing with the participation of the parties outside the court premises. Thus, it was provided for the use of the EasyCon system or other means available to the court and participants in the trial, ensuring the conduct of court hearings in the mode of video conferencing. In this context, the involvement of digital technologies contributed to the functioning of civil proceedings and the consideration of civil cases in special conditions.

It is appropriate to note that these issues have already been subject to consideration by the ECHR. Yes, in the case of Lawyer Partners A. S. v Slovakia was found to violate the right of access to justice due to the refusal of the courts to accept the statement of claim in electronic form due to lack of equipment (Case of Lawyer Partners A.S. v Slovakia, 2009). In the case of Tence v Slovenia, the ECHR concluded that any interruptions that occurred in the electronic document management system and led to the fact that the applications and the annexes attached to them could not reach the court should be interpreted in favor of the person who did everything to properly perform his duties (Case of Tence v Slovenia, 2016).

The main problem in ensuring access to justice remains the inadequacy of certain provisions of procedural legislation to modern conditions. In conditions of war and global threats, the main task is to develop and apply innovative means, techniques and methods to ensure the right of citizens to access the court in electronic form.

Due to the fact that the contents of the Code of Civil Procedure of Ukraine were not amended accordingly, the court and the participants in the process in the course of their activities under martial law use the provisions of the legislation of the times of the introduction of quarantine measures. For example, at the request of a person, the court extends the procedural period established by the court if the impossibility of committing the relevant procedural action within a certain period is due to restrictions imposed in connection with the quarantine (Golubeva, 2022). Under a similar rule, the court may renew the procedural terms. Thus, the civil procedure legislation does not provide for the possibility of determining such actions of the court, however, provided that the actual situation requires

this, it is possible to file a corresponding petition to skip the deadline.

Another important step towards the development of digitalization in the judicial system of Ukraine was the creation of an additional channel of communication between the courts and the participants in the trials through the electronic application "Action", thanks to the capabilities of which citizens can receive notifications about court hearings, copies of court decisions and executive documents, as well as pay court fees (On approval of the Procedure for electronic information interaction between the Unified State Register of Court Decisions and the Unified State Web Portal of Electronic Services "Portal Diya", 2010). Information interaction takes place in accordance with the current legislation, on a free basis in an automated way using application program interfaces and means of technical and cryptographic protection of information.

One of the problems of implementing digital justice under martial law is the low level of awareness and awareness of the population of the opportunities, benefits and support. One of the ways to solve this aspect is to place relevant information on the official platforms of courts, public authorities, dissemination in the media, and communication activities. The importance of creating additional tools and online assistants for people with disabilities should be highlighted. This provides an opportunity to guarantee and increase the level of awareness of citizens in their access to electronic justice in order to protect their rights.

It is worth paying attention to the expediency of eliminating certain legislative gaps and uncertainties in the regulation of procedural and technical issues regarding the use of the possibilities of electronic legal proceedings, in particular, determining the size of the court fee in case of applying to the court in electronic form. The issue of applying the 0.8 coefficient to reduce the court fee rate when submitting procedural documents in electronic form has already been the subject of consideration by the Supreme Court of Ukraine (Resolution of the Supreme Court of Ukraine, 2022), but the relevant rule has not entered into force. In our opinion, this problem has not lost its relevance and requires appropriate legal settlement.

We share the point of view of individual scholars that taking into account the European integration aspirations of Ukraine, the implementation of the approaches laid down in the international standards for the implementation of legal proceedings, reflected in particular in the European rules of civil procedure, taking into account the practice of the ECHR on this issue is becoming more important (Pilkov, 2022).

Of particular relevance in terms of access to justice is the clarification of national

mechanisms for ensuring the right of participants in the case to receive information in it. Indeed, under martial law, many people were forced to leave their homes without notifying the court about the change of their place of residence for obvious reasons. The consequence of this was the situation when a participant in the case, who for objective reasons temporarily resides in another locality, is not able to receive the documents that the court or another participant in the case sent to his postal address.

The subsystem "Electronic Court" introduced in Ukraine provides a wide range of opportunities for participants in the case to file documents, get acquainted with the case materials, receive information about the course of its consideration, etc. At the same time, there are alternative ways of communicating with the court. In particular, the exchange of procedural documents is possible through a mailbox in the system of exchange of electronic documents on the official web portal of the judiciary of Ukraine at the address: mail.gov.ua or through other e-mail addresses indicated in the relevant statements by the participants in the trial. Also, due to the limited access to information systems of the judiciary of Ukraine, when applying to the court, we recommend that you indicate current telephone contacts, email addresses and the address of your location. Do not ignore the provision of written consent of the participants to send the court confirmation of receipt of documents (Chernilevskaya, 2022).

We consider justified the decision to restrict general access to the Unified State Register of Court Decisions, the services "State of Consideration of Cases" and "List of Cases Scheduled for Consideration" in connection with the implementation of massive hacker attacks on the web resources of the judiciary during the period of martial law in Ukraine.

Also, one of the draft laws proposes to provide those judges are empowered to enter into the Unified State Register of Court Decisions all court decisions and individual opinions of judges, expressed in writing, remotely, outside the premises of the court, in particular outside working hours, provided that the judge is provided with safe access to the automated system of court document circulation using a qualified electronic signature. This authority is not limited to the conditions of war or emergency time. The High Council of Justice of Ukraine supported such a legislative initiative only if it develops reliable technical support that can prevent third parties from interfering in the automated system or unauthorized user change in the system. Without taking into account these factors, the amendments proposed by the legislator to the procedural codes in this part in practice can have negative consequences for both judges and participants in the trial (The High Council of Justice

supported the bill on the implementation of legal proceedings during a martial law or state of emergency with comments, 2023).

Thus, the issue of introducing the concept of electronic justice into the practical activities of justice bodies is a significant component of the principle of publicity and openness of judicial proceedings, and the gradual digitalization of their activities is a necessary condition for creating an effective mechanism for the legal regulation of procedural legal relations in which public and private interests intersect. Global trends towards simplification of legal proceedings through the use of modern digital tools require a detailed and systematic analysis of current legislation, the practice of its application at national levels, as well as the use of international best practices on these issues.

5. Conclusions

Transparency and openness of civil litigation is one of the main guarantees in ensuring the right to a fair trial, which applies not only to participants in a civil case, but also to the public, whose presence in the case is recognized as an international standard of justice. Publicity is not absolute and exists next to confidentiality, its limitation is possible only when it is dictated by the need to protect public order or the interests of the participants in the case in ensuring their right to privacy.

The key role in the process of application, development and implementation of international standards in the field of legal proceedings is played by the decision of the ECHR, whose legal positions on compliance with the principle of publicity and openness of the judicial process in cases pending in civil proceedings should be used by national courts in order to exercise fair justice and contribute to increasing the level of public confidence in the judiciary. Generalization and analysis of judicial practice in terms of compliance with the principles of publicity and openness of the judicial process in civil cases makes it possible to identify the problematic aspects of law enforcement, determine the most effective ways to solve them and achieve the necessary unity of judicial practice in solving problems of access to justice.

The implementation of the concept of electronic legal proceedings under martial law in Ukraine requires a comprehensive, humanistic approach to the introduction of electronic document management, the use of modern digital technologies in the implementation of correspondence with participants in the civil process and procedural actions with their

participation, simplification of the transfer of applications, complaints, petitions through the system of electronic cases, creating conditions for preventing subjective influence on electronic legal proceedings, etc.

The introduction of innovative and communication means into the judicial system should not only increase the level of efficiency of the functioning of the judicial system as a whole, but also guarantee and ensure the right of citizens to access to justice under martial law, an integral part of which is publicity and openness of the judicial process. Taking into account international standards of justice will contribute to the adaptation of the courts to modern conditions, as well as the implementation of the concept of creating an accessible, transparent, effective justice by an impartial and independent court, in particular the administration of justice in civil cases.

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