

# Ensuring the Right to a Fair Trial in Commercial and Civil Proceedings in the Information Age

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## Summary

A meaningful place among the rights that are universally recognized is the right to a fair trial. The importance of ensuring this right is especially reflected in civil and commercial proceedings because the effectiveness of the judicial system and procedural law, in general, depends on whether the violated right can be restored through a particular procedure. The rapid development of information technology is reflected in significant transformations in the judiciary and the development of the information system of the judiciary. Therefore, given the significant role of ensuring the right to a fair trial in civil and commercial proceedings, it is necessary to explore the features of ensuring the right to a fair trial in these jurisdictions during the development of information technology, highlight key principles, and address issues of a fair trial. The research methodology consists of such methods as the system method, historical method, comparative legal method, formal-legal method, logical-legal method, method of alternatives, method of analysis, and method of generalization. As a result of the study, the peculiarities of ensuring the right to a fair trial in civil and commercial matters will be analyzed, taking into account both international experience and the norms of national legislation of different countries. In addition, the positions of the European Court of Human Rights (hereinafter – ECtHR) on the content of the right to a fair trial as a set of elements, namely: unencumbered legal and economic barriers to access to justice, due process, public trial, reasonable trial time, consideration of the case by an independent and impartial court established by law.

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## Keywords:

*information age, the right to a fair trial, commercial proceedings, civil proceedings.*

## 1. Introduction

The Constitution of Ukraine declares Ukraine as a state governed by the rule of law, in which the principle of the rule of law is recognized and operates [1]. One of the hallmarks of the rule of law is ensuring the right to a fair trial. In accordance with the provisions of the Civil Procedure Code of Ukraine and the Commercial Procedural Code of Ukraine, each person (organization) has the right in the manner prescribed by this Code to go to court to protect their violated, unrecognized or disputed rights, freedoms and interests [3,4].

Also, on July 17, 1997, Ukraine ratified the Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950, committing itself to guaranteeing the rights enshrined in it and recognizing the jurisdiction of the European Court of Human Rights in the interpretation and application of this Convention. This is extremely important for civil and commercial litigation in our country. Thus, the Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950 (hereinafter – the Convention) is the leading international legal act regulating the mechanism of protection of human rights and freedoms. Following Part 1 of Art. 6 of the Convention, everyone has the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law, which shall settle a dispute concerning his civil rights and obligations or establish the merits of any criminal charges against him [2].

Although Ukrainian legislation does not disclose the content of the right to a fair trial and ensures this right in a special legal norm, it embodies and enshrines some of its components in various legal acts. The protection of inalienable human rights and freedoms is entrusted to the court, which is enshrined in judicial and procedural law.

In order to raise national standards of the judiciary in Ukraine, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On Ensuring the Right to a Fair Trial", which amended Chapter XII of the Commercial Procedure Code of Ukraine, reviewing court decisions by the Supreme Court of Ukraine. The Law of Ukraine "On Ensuring the Right to a Fair Trial" stipulates that the judiciary and the administration of justice in Ukraine, operate on the basis of the rule of law in accordance with European standards and ensure the right of everyone to a fair trial [5].

In addition, given the fact that the modern world is developing in the paradigm of information technology and is moving towards an information society that lives in the "online" mode, the Internet and modern information technology in all spheres of public relations have taken a prominent place in society. This circumstance is reflected in the justice system, which is one of the most important forms of such interaction and affects the right to a fair trial.

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Thus, as we can see, the right to a fair trial is noteworthy among other human rights, as its content indicates that any violated right can be restored through due process. In the absence of an effective and fair procedure for the protection and restoration of the infringed right, any other rights guaranteed by that State shall be declarative. This circumstance increases the attention to the study of the issue of ensuring the right to a fair trial, especially in civil and commercial proceedings in the development of information technology.

## 2. Methodology

To examine the right to a fair trial in the information age, such methods as the system method, historical method, comparative-legal method, formal-legal method, logical-legal method, method of alternatives, method of analysis, method of generalization were utilized.

1. A systematic method was used to analyze the right to a fair trial as a system of relationships between institutions. The systematic method allowed to study the right to a fair trial and the peculiarities of its provision in civil and commercial proceedings through the consideration of a complex object as a whole set of elements in the set of relations and connections between them.

2. In order to comprehensively understand the development and transformation of the right to a fair trial in different time periods, the historical method was used. The historical method allowed us to study the development of the doctrine of the right to a fair trial and its implementation in different countries in chronological order.

3. The comparative-legal method allowed to compare the state of ensuring the right to a fair trial in Ukraine and foreign countries, as well as the peculiarities of ensuring and exercising this right in the conditions of various factors. As a result of the comparison, the state of ensuring the right to a fair trial in civil and commercial proceedings was established.

4. The formal-legal method allowed to study the internal component of the right to a fair trial, to define legal concepts and categories and to establish methods of interpretation of the studied law. This tool has clarified what constitutes the right to a fair trial and what tools are in place to ensure that this right is properly exercised.

5. The logical-legal method avoided contradictions in the study of the right to a fair trial in civil and commercial proceedings and the formation of conclusions on the subject and contributed to the correct and competent application of legal norms.

6. The method of alternatives made it possible to identify contradictions between different hypotheses about the influence of different factors on the right to a fair trial through research and assumptions. At the same time, this method was used to study existing hypotheses about the

right to a fair trial, and then, through criticism of such hypotheses, new knowledge about the object of study was discovered.

7. To comprehensively study the research question, the method of analysis was used. Given that the method of analysis is to decompose a complex phenomenon into its components, simpler elementary parts and the selection of individual parties, properties, relationships, this method was analyzed in detail the components of the right to a fair trial. In addition, this method contributed to the study of the features and specifics of intra-system interaction and identify internal trends and opportunities for the development of the object of study.

8. The general features of the right to a fair trial have been explored through the generalization method. Thus, this method of cognition allowed to establish the general features of the right to a fair trial through a single transition from single to general and from less general to more general. All the above methods were used comprehensively for a comprehensive analysis and study of ensuring the right to a fair trial in civil and commercial proceedings, as well as to clarify problematic issues on the research topic.

## 3. Recent Publications on the Topic

The right to a fair trial has been the subject of research by scholars such as Borovska, Velychko, Buravlyov, Vasyliu, Vitkauskas, Dykov, Hrytsenko, Pohoretsky, Kuzmuk, Stepanova, Tuzhelyak, Shein, and Podkovenko.

Borovska and Velychko studied the issue of improving the system of national justice under the recommendations of the European Commission. The authors note that some of the remarks of the Venice Commission remain not taken into account in Ukraine due to the lack of a comprehensive approach to the process of implementing judicial reform as a type of management activity. Also, according to the authors, it is advisable to subordinate the process of judicial reform to the general principles of public administration, which will achieve the desired results of reform and implement European standards of justice, the main of which – the independence of the judiciary – is determined by the European Union [8].

Buravlev examined international standards and foreign experience in organizing the activities of judicial institutions of economic jurisdiction of the Member States of the European Union. In order to identify positive optimizations of the administrative and legal framework of commercial courts in Ukraine, the author identified key international principles of organization and functionality of judicial institutions of economic jurisdiction and analyzed the positive foreign experience of their implementation by individual European Union member states. The author analyzed in detail international, including European, documents and modern doctrines [9].

Elements of the right to a fair trial were explored by Vasiliu. Thus, the author analyzed the right to a fair trial under the Convention for the Protection of Human Rights and Fundamental Freedoms and found that the right to a fair trial is one of the most important among other human rights because its content indicates that any the violated right can be restored through a fair trial. The article also clarifies the content of a person's right to a fair trial in the narrow and broad sense, highlights the features of the objects covered by this right, and summarizes that the right to a fair trial is a complex concept [10].

A comprehensive study of the protection of the right to a fair trial in accordance with the European Convention on Human Rights was conducted by Vitkauskas and Dykov [12].

Theoretical analysis of the right to a fair trial, as well as research on the definition and components of this law conducted by Gritsenko and Pogoretsky [13].

Kuzmuk analyzed international principles and standards of justice in his work. The author emphasizes that the processes of future judicial reform should be built through the implementation of general international principles of justice and rules of conduct of judges in national law. And in a hurry, usually do not use the world practice and experience that have been formed over the centuries, and build a Ukrainian bicycle, which, unfortunately, does not go far. And so far, it is not entirely clear whether the current reform of the domestic judicial system will be free of such shortcomings [15].

European standards of the right to a fair trial and the peculiarities of their implementation in the national legislation of Ukraine became the topic of Stepanova's research [18]. But the issue of specialization and decentralization of the German judicial system has become the subject of research Tuzhelyak [19]. Shein [20], in his work, investigated the conditions for ensuring a fair trial in Ukraine, as one of the prerequisites for ensuring the right to a fair trial. Another researcher, Podkovenko, analyzed in detail the standards of a fair trial in accordance with the Convention for the Protection of Human Rights and Fundamental Freedoms [16].

Thus, from the above analysis of the literature, it can be concluded that the right to a fair trial has been the subject of research by many scholars, but the right to a fair trial in civil and commercial proceedings has not been sufficiently studied. Therefore, it is important to analyze in more detail the provision of the right to a fair trial in the context under study.

#### **4. General provisions on ensuring the right to a fair trial in civil and commercial proceedings**

Ensuring the right to a fair trial plays an important role in the establishment and functioning of the rule of law. But ensuring this right, as well as the grounds for going to court has several features.

As a general rule, as seen from the case-law of the European Court of Human Rights, "civil rights and obligations", in addition to claims directly arising from private law relations in the classical sense (property rights, family law, etc.), can be considered and any other claims, the consequences of which affect the rights and obligations of a private nature. For the above-mentioned article to apply to a particular case, the latter must meet certain criteria:

Criteria:

- the disputed right or obligation must be provided for by national law;
- the existence of a dispute over the right;
- rights should relate to the definition of civil rights and obligations, and;
- certain rights and responsibilities should be [9, 2020].

In accordance with Part 1 of Art. 19 of the CPC of Ukraine, courts consider in civil proceedings cases for protection of violated, unrecognized or disputed rights, freedoms or interests arising from civil, housing, land, family, labor relations, as well as other legal relations, except when such cases conducted under the rules of other proceedings [4].

Given the fact that in cases of injunctive and separate proceedings there is no dispute about the right of guarantee, enshrined in paragraph 1 of Art. 6 of the Convention, applies only to lawsuits.

Regarding the economic process, it is worth paying attention to the changes of 2015. Thus, the Law of Ukraine "On Ensuring the Right to a Fair Trial", which entered into force on March 29, 2015, amended Section XII of the Commercial Procedural Code of Ukraine on review of court decisions by the Supreme Court of Ukraine expanded the list of grounds. Until March 29, 2015, the parties could apply only in two cases: unequal application by the court (courts) of cassation of the same substantive law, resulting in different court decisions in similar legal relations; establishment by an international judicial institution, whose jurisdiction is recognized by Ukraine, of violation of Ukraine's international obligations during the resolution of the case by the court. And after the entry into force of this law, the participants of the trial were able to apply for review in the presence of two more grounds, namely: unequal application by the court (courts) of cassation of the same rules of procedural law – when appealing a court decision further proceedings in the case or which is accepted in violation of the rules of jurisdiction or

jurisdiction of cases; inconsistency of the court decision of the court of cassation, set out in the decision of the Supreme Court of Ukraine, the conclusion on the application of substantive law in such legal relations. This shows that the changes have expanded the rights of participants in the process, as the admission of the case to the Supreme Court of Ukraine helps to overcome the artificial obstacles in their way to fair justice aimed at ensuring the rule of law [3,5]. The very right to a fair trial can be considered in a broad and narrow sense (Table 1).

Table 1: Approaches to understanding the right to a fair trial [13].

<i>Approaches to understanding the right to a fair trial</i>	
Broad meaning	Narrow meaning
The right is enshrined in paragraph 1 of Art. 6 of the Convention and is often equated with the right of access to a court in compliance with the requirements set out in that article.	The right to a fair trial covers only "fair" court proceedings, as well as the requirements of the independence and impartiality of the court, the publicity and reasonableness of the timing of the trial.

The right to a fair trial can be considered in a broad and narrow sense (Table 1). From the analysis of a significant number of ECtHR decisions, the following aspects of the right to a fair trial can be distinguished:

1) institutional – the requirements for the court as an institution of a democratic society and the composition of the court to consider the case.

These include:

-the right of access to court, the independence, and impartiality of the court, and;

- the establishment of the court based on law.

2) procedural – the requirements for the procedure of administration of justice in civil cases.

These include:

proper (fair) court proceedings;

public court proceedings, and;

a reasonable time for consideration of cases [17].

Consider the elements of ensuring the right to a fair trial, including civil and commercial jurisdiction in more detail.

#### 4.1 Access to court

This element implies that the person has real access to the judiciary, which is not limited by legal and economic barriers. Legal obstacles are the existence of norms in national law that exclude the possibility of considering a case from the jurisdiction of a particular court and the existence of norms that allow open proceedings (compliance with the statute of limitations, the need to file a case in the court to which it belongs, etc.). However, the right of access to court may not be absolute but may be limited. The case-law of the ECtHR states that restrictions imposed by the state should not deprive a person of the right

to protection at all and should leave certain alternative means of protection and restrictions should have a legitimate purpose and be proportional between the means and the achieved goal. The Constitution of Ukraine also stipulates that the jurisdiction of the courts extends to any legal dispute and any criminal charge, which indicates the unlimited jurisdiction, and therefore each person may apply to the court to protect their rights [1]. At the same time, the restrictions imposed by national law on certain deadlines for applying to the court for protection, on the form and content of the statement of claim, etc. are legitimate. Economic obstacles include paying court costs, depositing money in court, the high cost of legal aid, the mandatory participation of a lawyer in the case, and etc.

In addition, in this aspect, the use of information technology in the justice system is defined as one of the progressive areas for the effective exercise of citizens' right to access to justice.

The main purpose of e-justice is to ensure the unimpeded exercise by citizens of the right of access to justice, to simplify a number of procedural actions for citizens. In some cases, such technologies make access to justice the only possible way (especially in the era of the Covid-19 pandemic). As a result, the right of access to justice is seen not only as a person's physical ability to be present at a court hearing, but also in terms of state-of-the-art technologies, actions and support procedures to ensure and facilitate access to justice.

The e-justice system is a system consisting of elements that provide access to information about the activities of courts, and judicial automation systems, the main elements of which include: submission of procedural documents in electronic form through the official website of the court; formation of the court, provided by an automated information system; receiving court notices in electronic form; audio minutes of court hearings; application of video conferencing system.

Yet, sometimes, new technologies can significantly limit access to justice. For example, in access to justice, categories of persons who are involved in the case but do not have the skills to work with modern information technology or do not have the appropriate technical equipment. In this case, the right of access to justice for such categories of persons will be narrowed, and in the absence of financial opportunities to obtain professional legal assistance, such a right will not be exercised.

Given this factor, the establishment of electronic judicial communication as the only form of communication between litigants, when the right to use electronic technology becomes mandatory, will create excessive obstacles to access to justice and restrict access to justice as an opportunity for citizens to freely exercise their right to protection of their rights, freedoms and legitimate interests [14].

#### 4.2 Proper court procedure

In interpreting the concept of "fair trial" in the narrow sense, the European Court identifies several requirements that can be grouped into four groups.

1. Validity of the decision, proper notification, and hearing, acceptance of evidence obtained legally.

2. The principle of equality of opportunity (the parties are allowed to present their case in conditions that do not give it an advantage over the opponent) and the adversarial principle and the parties are given equal opportunity to express their views on the case, provide evidence and objections).

3. Non-interference of state bodies in the judicial process. This requirement implies non-interference of state bodies when the latter are parties to the case.

4. The principle of legal certainty, which is manifested in the fact that the court's decision in a particular case is final and beyond doubt, and must be irrevocably enforced [17].

#### 4.3 Fair trial

The requirement of publicity is an open regime of the court session, i.e. the parties, their representatives and anyone interested should be allowed in the courtroom. It also requires proper notification of the parties to the case. It should be noted that paragraph 1 of Art. 6 of the Convention does not preclude the holding of closed court hearings if provided by law [2]. It is equally important to allow the parties to express their views, exchange views, give explanations to the court and ensure that the court's decision is announced publicly, regardless of whether it is an open or closed trial. The principle of publicity is enshrined in Art. 7 GIC "Publicity of the trial" and Art. 8 GIC "Openness of information about the case" [4].

#### 4.4 Reasonable time for trial

Ensuring the right to a fair trial plays an important role in the establishment and functioning of the rule of law. But ensuring this right, as well as the grounds for going to court has several features. This principle is enshrined in Art. 2 of the CPC as the main principle of civil proceedings [4].

To answer the question of the reasonableness of the length of the proceedings, the ECtHR has developed certain criteria:

- 1) the complexity of the case;
- 2) the applicant's conduct;
- 3) actions of the relevant authorities.
- 4) the significance of the issue for the applicant or the special position of the party in the case [17].

#### 4.5 Consideration of the case by an independent and impartial court

The court established by law means that it has a legal basis for its operation, and also operates within its substantive, territorial and functional jurisdiction, and within the legal composition of the court. Regarding the "impartiality" of the court, the European Court has identified two aspects: the body hearing the case must be subjectively impartial and such a body must also be impartial from an objective point of view, i.e. it must provide sufficient guarantees to exclude any legitimate doubts about this [10].

In addition, several innovative technological processes are currently being actively implemented and used to exchange information between the court and litigants, as well as between the court and other bodies for consideration of cases and appeals to ensure the right to a fair trial. But it turns out in practice, some of them are not perfect enough and must be brought into line with the needs of their users in legal and technical form [11].

### 5. International experience in ensuring the right to a fair trial in civil and commercial proceedings and problematic issues

To understand how the right to a fair trial is ensured in different countries, we will analyze foreign experiences on this issue.

Recommendation CM / Rec (2010) 12 of the Committee of Ministers of the Council of Europe on the Judiciary: Independence, Efficiency, and Duties, adopted by the Committee of Ministers of the Council of Europe on 17 November 2010, plays an important role among international instruments on the administration of justice. Following Recommendation CM / Rec (2010) 12 of the Committee of Ministers of the Council of Europe on Judges, it is remarked that judge plays a key role in ensuring the protection of human rights and fundamental freedoms, in order to promote the independence of judges, which is an integral part of the rule of law necessary for the impartiality of judges and the judiciary. The Recommendation also emphasizes that the independence of the judiciary guarantees everyone the right to a fair trial and is therefore not a privilege of judges, but a guarantee of respect for human rights and fundamental freedoms, enabling everyone to have confidence in the judiciary and the need to guarantee judges the right to stand and exercise their powers to create an effective and fair legal system and to encourage them to participate actively in the judiciary [6].

Equally important for ensuring the right to a fair trial is Recommendation Rec (94) 12 of the Committee of Ministers of the Council of Europe on the Independence, Effectiveness, and Role of Judges, which declared its

intention to intensify further substantial renewal to strengthen all measures necessary to promote the independence of judges, increase their efficiency, strengthen the role of judges and the judiciary in general [7].

An analysis of the above documents shows that the European Community is betting on the independence of the judiciary.

At the same time, it should be noted that specialized international recommendations, resolutions or advisory acts on the activities of judicial institutions of economic or civil jurisdiction are almost non-existent. There are only some recommendations on certain aspects of appeal procedures, enforcement and free legal aid.

Regarding some foreign experience, it is worth paying attention to the following.

Not all European countries have specialized commercial courts. In Austria, for example, there is a single Commercial Court for the whole country, which hears commercial disputes, including bankruptcy cases; a commercial tribunal has been set up in Belgium to act as a court of first instance, dealing with disputes mainly over trade relations; in Switzerland, commercial courts have been set up to resolve commercial disputes, consisting not only of lawyers but also of business representatives elected by the cantonal councils; in Spain there are Commercial Courts and they are considered specialized courts (they are part of the system of civil jurisdiction) [9].

A striking example of successful enforcement of the right to a fair trial is Germany. In this country it is not customary to enroll in specialized arbitral tribunals, which is a separate institution, and in general cases of commercial jurisdiction are considered either by regional courts as a whole or by chambers of commerce, which may be established by relevant local authorities in regional courts. Germany's commercial (arbitration) courts are quite similar to the model of arbitration courts in Ukraine. Cases in such a court are heard by one professional judge and two lay judges, who are elected on a competitive basis for 3 to 5 years to serve as a lay judge and overwhelmingly represent the private sector, business and business. Legal entities and natural persons-entrepreneurs have the right to file a lawsuit in a commercial court. However, this right is an alternative. A claim with a similar subject matter and subject matter may be brought before a court of general jurisdiction, namely a local court if the price of the claim does not exceed EUR 5,000, and a regional court if the price of the claim exceeds the specified amount. Commercial cases are the responsibility of judges of the Chamber of Commerce of the court of general jurisdiction, the case is considered by a panel of three, and there is a rule that in regional and higher regional courts of general jurisdiction the parties are represented only by lawyers. Every German court has a presidium that decides the most important issues of the court. In general, the judge in Germany plays a very active role in resolving the dispute. He has the power to question

witnesses, examine evidence, and draw the attention of the parties and their weak and strong arguments to the confirmation or denial of the merits of the claims. The judge also has the right to refer to a potentially possible settlement of the dispute by inviting the parties to reach an agreement through mediation prior to the commencement of the trial or amicable settlement throughout the proceedings. As a general rule, a direct trial is one trial, which is the main one (Haupttermin). The primary task of a judge in Germany is to become an assistant in finding a compromise between the parties. According to him, 1/3 of the cases end with a settlement agreement (Vergleich), which is a decision and consists of three parts, including an agreement on payment (division of obligations), division of court costs and execution of the agreement. Germany's judicial system encourages the settlement of disputes through amicable settlements.

Judges in German courts have four blocks of competence:

- 1) subject and professional competence;
- 2) personal competence;
- 3) social competence;
- 4) managerial and managerial competence.

They are described in the requirements profile defining ideal-typical qualifications. In addition, for the alternative resolution of civil and commercial disputes in Germany, various mediation organizations have been established and operate, which often specialize in dealing with certain types of conflicts [19].

Thus, international experience shows that in order to ensure the right to a fair trial, there must be both organizational requirements for the establishment of a judicial process, qualification requirements for judges, and legal requirements governing the grounds for appeal, the method of protection, and etc.

Regarding the problematic issues of ensuring the right to a fair trial in civil and commercial proceedings, it is worth noting the following.

Given the quarantine restrictions in Ukraine and around the world, open access to court hearings is significantly limited. In addition, there are significant problems in considering cases within a reasonable time, as the lack of appointments among judges and low funding do not facilitate the timely consideration of cases within the statutory period, but instead delay the consideration of cases for a long period. There is a big problem with the enforcement of court decisions, which essentially eliminates the role of the court in ensuring the right to a fair trial. These circumstances show that it is important to ensure the right to a fair trial in civil and commercial proceedings through a coordinated mechanism for timely and objective adoption and enforcement of court decisions.

## 6. Conclusions

In the course of the study of ensuring the right to a fair trial in civil and commercial proceedings in the information age, the following conclusions were made:

1. The level of ensuring the right to a fair trial plays an important role, because without adequate guarantees for the exercise of this right, all other rights remain unprotected.

2. The right to a fair trial may be considered in a broad sense (provided for in Article 6 § 1 of the Convention) and in a narrow sense (covering only the concept of a "fair trial").

3. Ensuring the right to a fair trial in civil and commercial proceedings consists of several interrelated elements, such as: ensuring access to court (unencumbered by legal and economic obstacles) the ability to go to court to protect their rights and freedoms; ensuring the publicity of the case (open hearing, oral procedure and publicity of the decision); ensuring proper judicial procedure (making an informed decision, proper notification of the date and place of the hearing, examination of evidence, etc.); ensuring a reasonable time for consideration of the case (the basis for determining the "reasonableness" of the term is the level of complexity of the case, the applicant's behavior, the actions of relevant authorities, etc.); ensuring the consideration of the case by an independent and impartial court established by law (the court acts on the basis of law, within its jurisdiction and the legal composition of the court, and is also independent and impartial).

4. International experience and European guidelines confirm that it is important to put in place appropriate mechanisms to improve access to justice in civil and commercial proceedings, including: the possibility of considering the introduction of an accelerated procedure for commercial and civil disputes in the case of the court's use of alternative dispute resolution; study of the effectiveness of administrative and legal principles of public administration of extrajudicial activities of judges; adoption of administrative and legal bases for the implementation of alternatives to judicial resolution of commercial disputes; the need for specialized specification of the status of a judge of a commercial (civil) court; expanding the profile of requirements for the position of a judge of a court of four by a block of competent jurisdiction.

5. The introduction of information technology in the judiciary in modern conditions of public relations is a necessity and requirement of today and one of the ways of transparent court activity and ensuring access to justice, because these technologies help bring the court closer to the citizen and ensure the right to a fair trial.

With regard to further research in the field of the right to a fair trial, it is important to analyze the possibility of exercising this right under restrictions of state of emergency and martial law, and to examine the proportionality of restricting such a right for some jurisdictions under uncertainty.

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