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The right to a fair trial: conceptual rethinking in an era of quarantine restrictions

El Право на справедливий суд: концептуальне переосмислення в епоху карантинних обмежень

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Abstract

One of the most important places among the universally recognized rights is the right to a fair trial. The essence of this right is that any violated right can be restored through a particular procedure. In the absence of an effective method for the protection of rights and interests, the rights and freedoms recognized and enshrined in law are only declarative provisions. Given the significant role of the right to a fair trial and changes in its provision under quarantine restrictions, it is necessary to analyze the content of this right, highlight principal requirements and problematic aspects of implementation given the current conditions of social relations. The purpose of the work is to analyze the content of the right to a fair trial. The subject of the study is the social relations that arise, change, and terminate during the exercise of the right to a fair trial. The research methodology includes such methods as a statistical-mathematical method, method of social-legal experiment, cybernetic method, comparative-legal method, formal-legal method, logical-legal method, and method of alternatives. The study will analyze the content of the right to a fair trial as international law and national law, its impact and interaction with the national legal system of Ukraine, which includes

Анотація

Одне із найважливіших місць серед загальноновизнаних прав посідає право на справедливий суд. Зміст цього права полягає в тому, що будь-яке порушене право може бути відновлене завдяки визначеній процедури. У випадку відсутності ефективної процедури захисту прав та інтересів, права та свободи визнані та закріплені в законодавстві є лише декларативними положеннями. З огляду на значну роль права на справедливий суд та зміни у його забезпечення в умовах карантинних обмежень, важливо проаналізувати зміст цього права, виокремити ключові положення та проблемні аспекти реалізації зважаючи на сучасні умови розвитку суспільних відносин. Метою роботи є здійснення аналізу змісту права на справедливий суд. Об'єктом дослідження є право на справедливий суд. Предметом дослідження є суспільні відносини, що виникають, змінюються та припиняються під час реалізації права на справедливий суд. Методологією дослідження складають такі методи як статистико-математичний метод, метод соціально-правового експерименту, кібернетичний метод, порівняльно-правовий метод, формально-юридичний метод, логіко-

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theoretical, applied, and common law aspects and conceptual rethinking in an era of quarantine restrictions.

Keywords: court, justice, the right to a fair trial, guarantees of human rights, the Convention for the Protection of Human Rights and Fundamental Freedoms.

Introduction

The basis for respect for human rights is a fair, independent, impartial tribunal.

Following Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms (United Nations, 1950) ("the Convention"), in the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

A fair trial means that it must be impartial, act under the law, and act based on equality, humanism, and other principles recognized by international law.

Justice promotes the interaction of principles (legality, equality of citizens before the law, humanism) in the criminal law system; is considered as a generalizing principle of criminal law, a multilevel social phenomenon, one of the central categories of public consciousness, and also determines the content of the principles of equality and humanism.

The Constitution of Ukraine (Law No. 254к/96-ВР, 1996) stipulates that everyone is guaranteed the right to appeal in court against decisions, actions, or omissions of public authorities, local governments, officials. The Constitution also enshrines the possibility of going to court to protect one's rights, which can be seen as an element of the right to a fair trial.

For a court to make a decision, including when appointing a person to criminal responsibility and other measures of a criminal law nature, it is necessary to observe "... a balance of justice between the requirements of the public interest

юридичний метод, метод альтернатив. В результаті дослідження буде проаналізовано зміст права на справедливий суд як міжнародно-правової норми та норми національного права, його вплив та взаємодію з національною правовою системою України, що включає теоретичні, прикладні та загальноправові аспекти та концептуальне переосмислення в епоху карантинних обмежень.

Ключові слова: Cliente, satisfacción, servicio, disponibilidad del sistema, cumplimiento y efecto, plataformas de reuniones en línea.

and the protection of fundamental individual rights" (Mowbray, 2010). The principle of fair balance is that the court decides on the law in symbiosis with the obligations of the Member States under the provisions of the Convention. National authorities must balance the interests of members of society with fundamental human rights and freedoms.

According to the Law of Ukraine "On the Right to a Fair Court" (Law No. 192-VIII, 2015), the judiciary and the administration of justice in Ukraine, which operate based on the rule of law under European standards and ensures the right of everyone to a fair trial.

Therefore, the right to a fair trial is enshrined in Ukrainian and international law. However, significant transformations are taking place in the right to a fair trial in an era of quarantine restrictions. Thus, in the context of a global coronavirus pandemic, quarantine was introduced by the resolution of the Cabinet of Ministers of Ukraine (Resolution No. 211, 2020). It is clear that the main task of the moment for humanity is to survive and successfully overcome the global crisis caused by the pandemic (Tkalych, Safonchuk, & Tolmachevska, 2020).

Quarantine is imposed by different countries around the world but to different degrees. Thus, the understanding and interpretation of the right to a fair trial have changed, which is ambiguous and needs further refinement.

Given the above, it is vital to analyze and explore the current understanding of the right to a fair trial and the problematic aspects of its implementation.

Theoretical Framework or Literature Review

The content of the right to a fair trial was studied by the following scientists: Berezhansky (2017), Gritsenko and Pogoretsky (2012), Komarov and Sakara (2007), Moul, Harbi, and Alekseeva (2001), Pogrebnyak (2008), (Podkovenko 2016), Sorochkin, Bury, Razik, and Sirik (2003), Suprun (2002), and Shevchuk (2007).

Berezhansky (2017) analyzed the peculiarities of understanding the right to a fair trial and noted that common in modern scientific thought approaches to the separation of elements of the right to a fair trial does not always fully reflect the deep essence of this concept. Thus, the essence of the right to a fair trial must be revealed through the prism of the following aspects: substantive; institutional; material; and procedural. The substantive aspect of the right to a fair trial is based on the understanding of justice in a particular social cluster, because the decision may be legal, however, taken following the law in favor of a particular social group. In this context, we can mention the problems of class inequality that existed before the establishment of liberal and democratic freedoms in civilized countries, the problem of racial segregation, various forms of discrimination, etc. It is clear that the existing legislation, which does not solve these problems in the humanistic direction, will not contribute to the proper functioning of a fair court in the state. The institutional aspect of the right to a fair trial is manifested in the existence of lawfully and accurately formed judicial bodies, which are entrusted by law with the functions of administering justice within their jurisdiction. The presence of a judicial system is an institutional guarantee of the right to a fair trial. However, there is no single correct "formula" for the organization of a fair trial. This system can have a completely different look in different states and legal orders and does not have a negative impact on the administration of justice. The institutional aspect also provides for the relationship of courts with other public authorities, their independence, the status of judges, etc. The substantive aspect of the right to a fair trial should be understood as a legal opportunity regulated by law to go to court to protect their violated rights or interests, which has its own clearly defined form. This form is procedural documents in the form of a statement of claim, appeal, or cassation appeal. Defining clear grounds for filing an application or complaint, its procedural form, content complements the opportunity provided by the state to go to court and obtain a fair decision. That is, thus the right to a fair trial has its

regulated substantive expression, which is enshrined in the rules of procedural law. The procedural aspect of the right to a fair trial fully characterizes the number of procedural opportunities provided to persons enjoying the right to a fair trial. The researcher believes that this should include a set of procedural rights and responsibilities, as well as formal guarantees of a fair trial, including public hearings, reasonable time, legality, etc.

Gritsenko and Pogoretsky (2012) studied in detail the right to a fair trial and proposed to distinguish between institutional (creation of a court based on law, its independence and impartiality), organizational and functional (access to justice, equality of arms, right to legal aid, publicity) openness) of trial, binding nature of court decisions), functional (adversarial proceedings, reasonable time limits of consideration), and special (guarantees of criminal proceedings enshrined in paragraph 2.3 of Article 6 of the European Convention on Human Rights (United Nations, 1950)) elements of the right to a fair court.

Komarov and Sakara (2007) analyzed the content of the right to a fair trial, as a result of which they emphasized the following elements of the right to a fair trial: unencumbered by legal and economic obstacles access to a judicial institution; due process; public trial; reasonable time for trial; and consideration of the case by an independent and impartial court established by law.

Moul, & Harbi, and Alekseeva (2001) analyzed the European Convention for the Protection of Human Rights and Fundamental Freedoms and examined in detail the rulings of the European Court of Human Rights on the right to a fair trial used in this article.

Pogrebnyak (2008) analyzed the embodiment in the law of various aspects of justice and noted that formal justice is implicitly realized in law; thanks to it, the law actually plays the role of a third, disinterested "person" who resolves conflicts that arise between people. This kind of disinterest (impartiality) requires consideration of controversial cases, regardless of the party in the trial. According to the scientist, this understanding allows us to say that justice is the core of any sort of justice.

Podkovenko (2016) drew attention to the standards of a fair trial following the Convention for the Protection of Human Rights and Fundamental Freedoms. Moreover, Sorochkin, Bury, Razik, and Sirik (2003) compared the

compliance of the legislation of Ukraine with Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms and pointed out that despite the existence of particular laws and the right to a fair trial. In special laws, the level of justice and access to justice is generally not high.

Suprun (2002) analyzed the organizational and legal framework and noted that the jurisdictional basis of the European Court of Human Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms contains several dimensions of the rule of law. The first protects rights that cannot be restricted even in time of war or another state of emergency: the right to life, the right to personal integrity – the prohibition of torture, inhuman and degrading treatment, the prohibition of slavery, the right to the irreversibility of criminal law responsibility. The list of these rights is directly enshrined in Article 15 of the Convention. The second dimension of law and order includes rules that can be classified as secondary. The peculiarity of the meaning of these norms is given by the Court in their autonomous interpretation. To the third dimension of the rule of law, the scientist refers to the rules, that in the understanding of the European Court, ensure the effective development of a democratic society - the principle of publicity and adversarial proceedings, the right to free elections, the right to freedom of speech and more. Of course, they are also closely related to the original rules. These three dimensions of the rule of law, as well as the system of other guarantees provided by the Convention for the Protection of Human Rights and Fundamental Freedoms, form in its unity its legal system.

Shevchuk (2007) analyzed the judicial protection of human rights through the case-law of the European Court of Human Rights in the context of the Western legal tradition in detail. In this study, scholars noted that the right to a fair trial is a fundamental human right, and it is necessary to ensure that it is respected at a high level.

Besides, statistical information and reports of forums, public authorities on the observance of the right to a fair trial in eastern Ukraine, recommendations on the implementation of court decisions in Ukraine, reports on human rights in Ukraine were analyzed (Center for Civil Liberties, 2016; Council of Europe, 2020; Ukrainian Helsinki Human Rights Union, 2019; Department for the Execution of Judgments of the European Court of Human Rights, 2004;

European Court of Human Rights (ECHR), 2008; Vlasnyuk, 2020).

Therefore, from the above analysis of the scientific literature, we can conclude that the right to a fair trial has been studied by many scholars, and despite this comprehensive study of the content of the right to a fair trial, its impact and interaction with the national legal system of Ukraine, including theoretical, applied, and common law aspects were not conducted. Therefore, it is important to analyze in more detail the right to a fair trial, to pay attention to the problematic aspects of the implementation of this right, and ways to eliminate such problems.

Methodology

During the study of the right to a fair trial, such methods as a statistical-mathematical method, method of socio-legal experiment, cybernetic method, comparative legal method, formal-legal method, logical-legal method, method of alternatives were applied.

The statistical-mathematical method made it possible to obtain and process quantitative indicators of state and legal phenomena and processes and was utilized to reflect the level of public confidence in the judiciary, the characteristics of compliance with the right to a fair trial of the masses. Besides, this method was used to analyze sociological statistics that quantify the right to a fair trial.

The method of the socio-legal experiment allowed to study the right to a fair trial by observing the change of the object under study under the influence of factors that control and direct its development. Such factors include the study of the right to a fair trial under normal circumstances and in the context of the Covid-19 pandemic.

The cybernetic method helped to analyze the content of the right to a fair trial using a system of concepts, laws, and technical means of cybernetics. Thanks to the cybernetic method, legal information was obtained to determine the effective legal regulation of the right to a fair trial and its implementation in practice.

The comparative legal method made it possible to compare the provision of the right to a fair trial in Ukraine and foreign countries, as well as the features of ensuring and implementing this right in terms of various factors: quarantine, restrictions on funding of the judiciary, etc. As a

result of the comparison, the qualitative state of the right to a fair trial was established.

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 made it clear what constitutes the right to a fair trial.

The logical-legal method permitted to avoid contradictions in the study of law, a fair trial, and the formation of conclusions on the subject under investigation and contributed to the correct and competent application of legal norms.

The method of alternatives made it achievable to identify contradictions between different hypotheses about the content of the right to a fair trial through research and assumptions. Thus, the existing hypotheses about the right to a fair trial were investigated, and then, through the critique of such hypotheses, new knowledge about the object was discovered.

Results and Discussion

General provisions on the right to a fair trial

Consider the general provisions on the right to a fair trial. In general, based on the design of Part 1 of Art. 6 of the Convention (United Nations, 1950), it can be concluded that there are the following elements of the right to judicial protection: the right to a hearing; fair trial; publicity of the case, and announcement of the decision; reasonable time for consideration of the case; consideration of the case by a court established by law; independence and impartiality of the judiciary.

Thus, the right to a trial means the right to go to court and the right to have his case heard and decided by a court. It is important that the person should be able to exercise these rights without any obstacles or complications. A person's ability to obtain judicial protection without hindrance is at the heart of the notion of access to justice, as access to justice is an integral part of the right to a fair trial, although the term "accessibility" is not used in this article. A violation of Article 6 of the Convention is also recognized if the person concerned does not have the right to go to court on his own, as such a right is granted to another entity. A violation of Article 6 of the Convention is also recognized if the person concerned does not have the right to go to court on his own, as such a right is vested in another entity (Timofieieva, 2020). Thus, in the case of Phyllis

v. Greece (1991), the applicant, who worked as an engineer, could not sue on his own for payment of monetary remuneration for the projects he had carried out, as such cases had been brought only at the request of the Technical Chamber of Greece. In this case, the ECtHR found a violation of the right of access to justice. The general requirements of justice held in Article 6 apply to all criminal proceedings, regardless of the type of offense under consideration. However, in determining whether the proceedings as a whole were fair, it is possible to take into account the importance of the public interest in the investigation and punishment of a particular crime. Besides, Article 6 should not be applied in such a way as to create disproportionate difficulties for the police in the application of effective measures to combat terrorism or other serious crimes in the performance of their duties under Articles 2, 3, and 5 § 1 of the Convention. However, considerations of the protection of the public interest cannot justify measures that infringe on the very essence of the applicant's rights of defense, *Ibrahim and Others v. The United Kingdom* (ECHR, 2014).

The "right to a hearing" also includes the binding and final nature of the judgment. The ECtHR has repeatedly acknowledged violations of Article 6 of the Convention in cases in which the final judgment was subsequently overturned at the request of a public authority or prosecutor's office without providing new evidence in the case. The obligation of States parties to the Convention to ensure the finality of judgments is understood as the right of higher courts to review decisions should be used to correct errors and not to hold new hearings. An example is a decision in the case of *Tregubenko v. Ukraine* (ECHR, 2004g). The applicant complained that the final and binding judgment in his favor had been quashed under supervision: the Deputy Chairman of the Supreme Court of Ukraine had lodged a protest with the Plenum of the Supreme Court of Ukraine against the judgments in his favor. Subsequently, the Plenum of the Supreme Court upheld the objection and overturned the court decisions. The ECtHR noted that by allowing such a protest, the Supreme Court of Ukraine annulled the entire trial, which resulted in a final and binding decision and, therefore, violated the principle of *res judicata* in respect of a decision which, moreover, had already been partially enforced (*Podkovenko*, (2016).

The requirement of publicity applies both to the process of consideration of the case and to the proclamation of a court decision. It should be

emphasized that the ECtHR considers the requirement of public hearing to be complied with if the case has been heard in public at least in the court of the first instance. As for the appellate and other courts reviewing the case, there is no mandatory requirement for them to hold oral public hearings, which is directly enshrined in the decision in the case of *Ahsen v. Germany* (ECHR, 1983). If the publicity of the case in the court of the first instance has not been ensured, this can be corrected by a public appellate review of the case. Considering the requirement of publicity of the proclamation of the court decision, it should be noted the absence of any exceptions to it. Thus, the public announcement of the court decision means an opportunity to get acquainted with it (due to the peculiarities of national court proceedings, which do not always involve the oral announcement of a court decision). If the text of the decision is publicly available, there will be no violation of Article 6 of the Convention.

The next element of the right to a fair trial under Article 6 of the Convention is the right to a reasonable time. The ECtHR does not set any specific deadlines that can be considered reasonable or unreasonable – this issue is decided in each case, taking into account all the features and circumstances. As a general rule, a reasonable period of time is calculated from the moment the case is opened and ends with a final decision by a court of the highest instance. The analysis of the case-law of the European Court of Human Rights shows that in determining the reasonableness of the term of consideration of the case such criteria as the importance of the case for the applicant, complexity of the case, the conduct of the parties, number of stages of proceedings, features of the political or social situation in the state. The ECtHR extends the requirement of reasonable time not only to the consideration of the court case but also to the execution of the court decision. In *Burdov v. Russia* (ECHR, 2002), the ECtHR explicitly states that the right of recourse enshrined in Article 6 of the Convention would be illusory for the legal system of the States Parties to the Convention to assume that a judgment which has entered into force and is binding shall remain in force in respect of one of the parties contrary to its interests. The interpretation of Article 6 of the Convention in the light of the rule of law requires a broader approach, according to which formalities cannot be grounds for justifying injustice. Thus, it cannot be imagined that Article 6 of the Convention, while protecting the right to a reasonable period of proceedings, would not

provide for the protection of the right to enforcement of a judgment.

Part 1 of Article 6 of the Convention explicitly states that everyone has the right to a trial by a court established by law. The ECtHR's judgment in *Sokurenko and Strygun v. Ukraine* (ECHR, 2006) stated that, according to the Court's case-law, the term "established by law" in Article 6 of the Convention was intended to ensure that "the judiciary in a democratic society does not depend on the executive but governed by a law passed by parliament. The formula "established by law" extends not only to the legal basis of the very existence of the "court", but also to the observance by such court of certain rules governing its activities. In this case, the ECtHR concluded that the adoption by the Supreme Court of Ukraine of a ruling which was not provided for by the relevant procedural code constituted a violation of Article 6 of the Convention. The ECtHR made a similar decision after considering the case of *Veritas v. Ukraine* (ECHR, 2012) (*Berezhansky*, 2017).

The European Court of Human Rights is quite demanding in determining whether the court hearing the case was independent and whether its impartiality was ensured.

The case-law of the European Court of Human Rights is primarily based on the presumption of independence of the courts. Independence is understood as the ability of a court to hear a case and make a decision without being dependent on the will in any way of the parties or public authorities. Therefore, if the ECtHR hears such a case, it is established, first of all, whether the court or body authorized to decide the case is subordinate to any of the executive bodies (*Podkovenko*, 2016).

Therefore, the content of the right to a fair trial consists of: the right to a trial; fair trial; publicity of the case and announcement of the decision; reasonable time for consideration of the case; consideration of the case by a court established by law; independence and impartiality of the judiciary, and at both the national and international levels, it is necessary to ensure such rights, elements of the right to a fair trial.

Exercise of the right to a fair trial in Ukraine

Consider the factors that affect the exercise of the right to a fair trial in Ukraine.

Factors influencing the exercise of the right to a fair trial:

- Pressure from political forces
- Long court proceedings
- Insufficient funding and staffing
- The courts do not have the opportunity to enforce their decisions (US Department of State. Bureau of Democracy, Human Rights and Labor Relations, 2020).

An equally important factor influencing the exercise of the right to a fair trial is the introduction of quarantine restrictions. Thus, in order to prevent the spread of coronavirus disease, visiting the court is possible only with the use of personal protective equipment (masks or respirators). Expectations of citizens and visitors of the court outside the court premises, issuance of correspondence in a certain place on the street near the court building were introduced. The presence of the parties to the case, representatives of the parties, lawyers, but not more than five people at a time in the courtroom is allowed. Receipt of incoming correspondence, which is submitted in person, takes place in a specific mode at certain hours. Such actions, in essence, limit access to justice for citizens, and therefore the right to a fair trial should not be indicated.

The lack of fair regulation of public relations by Ukraine is evidenced by the fact that the citizens of our country have filed 8,833 complaints with the European Court of Human Rights. In total, since 1959, 1,413 decisions have been made against Ukraine. Of these, 572 relate to the right to a fair trial, 429 to the length of proceedings, 379 to the right to liberty and security, and 358 to the protection of property (Vlasyuk, 2020).

A large number of appeals is related to both the quality of the law and the practice of the judiciary. In general, the ECtHR has a positive effect on respect for human rights in Ukraine and is a practical mechanism for protecting citizens in many cases. This statement is potentially true for investors, albeit with some caveats, summed up by Vlasyuk (2020). According to ECtHR reports, 109 decisions were made against Ukraine in 2019. Official statistics show that against some European countries, such as the Czech Republic or Sweden, there are no appeals to the ECtHR at all. Against Poland, which has approximately the same population as Ukraine, 12 decisions were made in 2019 (Vlasyuk, 2020). According to statistics, out of fourteen judgments on the merits rendered against Ukraine by the European Court, ten found violations of Article 6

of the Convention. For example, Piven v. Ukraine (ECHR, 2004c), Tregubenko v. Ukraine (ECHR, 2004g), Sam Merit v. Ukraine (ECHR, 2004b), Svitlana Naumenko v. Ukraine (ECHR, 2004f), Voytenko v. Ukraine (ECHR, 2004h), Zhovner v. Ukraine (ECHR, 2004k), Shmalko v. Ukraine (ECHR, 2004e), Romashov v. Ukraine (ECHR, 2004d), Bakai and others v. Ukraine (ECHR, 2005), and Derkach and Palek v. Ukraine (ECHR, 2004a).

Therefore, it is worth considering the rights and principles of justice, the totality of which – is the content of the right to a fair trial and is the most contradictory in Ukrainian law and law enforcement.

The case law of the European Court of Human Rights on the exercise of the right to a fair trial

Consider the case-law of the ECtHR on the right to a fair trial in the context of Ukraine.

In general, Ukraine has made significant progress in accessing justice over the years of independence: open registries, videoconference meetings, and EasyCon. Nevertheless, the judicial reform process is rather slow and inconsistent. The judiciary does not enjoy sufficient public confidence. Common examples include the issue of physical access to court buildings: the ability to enter the courtroom, the submission of documents and annexes to them, not to mention the possibility of access for people with disabilities. Several issues are not unregulated and are, in fact, completely ignored. Court costs are often an obstacle to suing the poorest. Unfortunately, in 2021, there is an additional burden on the parties due to low funding of courts, lack of stamps, envelopes, and offices. Therefore, such costs are informally borne by the parties.

Regarding the publicity of the proceedings, we note the following. Publicity and openness require the court to ensure that the parties have the right to know the time and place of the court hearing in their case, the right to be heard in court and to know of all decisions made in their case. The implicit holding of court hearings would deprive the parties and other participants in the trial of any guarantees to prove the validity of their position. The openness of the trial gives persons who are not involved in the case the right to be present at court hearings. Without open access to court hearings, there can be no question of trust in the court. Under quarantine, such openness and publicity are severely limited.

With regard to the consideration of a case within a reasonable time, this guarantee emphasizes the importance of the administration of justice without delay, which may undermine its effectiveness and credibility. The value of the "reasonable time" criterion is to guarantee a judgment within a reasonable time, thus setting the limit of the state of uncertainty in which a person finds himself through criminal charges or in connection with civil law relations. An example of a violation of the reasonable time requirement is the judgment of the European Court of Human Rights in the case of *Sam Merit v. Ukraine* (ECHR, 2004b). The essence of this case can be summarized as follows. Mr. Merit, an Israeli citizen, was engaged in commercial activities in Ukraine. A criminal case was opened against him on suspicion of committing several official crimes. He was detained and remanded in custody. This case happened in 1998. Although, other precautionary measures were subsequently taken against the applicant, first a written undertaking not to leave and then an obligation to appear when summoned by the investigating authorities. The applicant was able to leave Ukraine, the criminal case against him was still under investigation. His property remained under arrest, although six years had passed since the case began. Under quarantine restrictions, courts are increasingly postponing cases, and some courts do not assign them at all.

Therefore, the legislation should be supplemented with norms that enshrine the right of any person (individual or legal entity) to compensation by the state for damage caused by exceeding a reasonable time of proceedings in courts of general jurisdiction; will establish the procedure for filing a complaint about exceeding a reasonable period of consideration and compensation for the damage caused by it; should determine the sources of funding for damages caused by exceeding reasonable time limits for legal proceedings (Podkovenko, 2016). Concerning the independence and impartiality of the judiciary, judges have the right to remuneration, the level of which should be such that they are protected from pressure in their decisions and their work in general. Besides, pressure on judges from politicians and the public plays an important role. Therefore, to ensure the rights of citizens to a fair trial, it is necessary to ensure the independence of judges by eliminating external factors and levers of influence.

Regarding the execution of court decisions, it should be noted that non-execution of court

decisions is an acute problem of access to justice in Ukraine. Complaints of violations of Article 6 of the Convention in connection with the non-enforcement of national court decisions are numerous. Existing mechanisms for enforcing court decisions have proved ineffective, and the courts themselves do not have the power to monitor the enforcement of their judgments.

Therefore, it is vital to ensure access to justice through a coordinated mechanism for the timely adoption and enforcement of court decisions.

Conclusions

As a result of the study, an analysis of the right to a fair trial and its conceptual rethinking in the era of quarantine restrictions was made and the following conclusions were made:

1. A fair trial means that it must be impartial, act in accordance with the law, and act on the basis of equality, humanism and other principles recognized by international law.
2. Justice promotes the interaction of principles (legality, equality of citizens before the law, humanism) in the system of criminal law; is considered as a generalizing principle of criminal law, a multilevel social phenomenon, one of the central categories of public consciousness, and also determines the content of the principles of equality and humanism.
3. For a court to make a decision (including when appointing a person to criminal responsibility and other measures of a criminal law nature), it is necessary to observe a balance of justice between the requirements of public interest of the community and the requirements of the protection of fundamental individual rights.
4. Justice in Ukraine, despite significant achievements in judicial reform, cannot be considered transparent and accessible to the individual. The judicial system does not meet the needs of the judiciary and does not provide sufficient procedural guarantees. Court decisions are often not correctly enforced. The judiciary is not independent and highly professional. The prosecutor's office retains broad powers, which duplicate judicial functions.
5. To improve access to justice, it is necessary to introduce appropriate mechanisms and increase funding for courts, increase guarantees of non-interference in the administration of justice by court presidents, politicians, and the executive and establish

an effective tool for disciplinary liability of judges, improve the system of execution of court decisions, to de-monopolize the state activity on the execution of court decisions and to adopt legislation that would determine the procedure for execution of decisions of the European Court of Human Rights; to establish control of the court over the execution of its decisions.

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