UDC 343:1
DOI: 10.32518/sals2.2024.179

Соціально-правові студії. 2024. Т. 7, № 2
Social & Legal Studios. 2024. Vol. 7, No. 2

Public and fair consideration of a case by an impartial and independent court in criminal proceedings: European standards and Ukrainian realities

Vira Navrotska
PhD in Law, Associate Professor
Lviv State University of Internal Affairs
79000, 26 Horodotska Str., Lviv, Ukraine
https://orcid.org/0000-0002-3407-7984
Halyna Boreiko
PhD in Law, Associate Professor
Ivan Franko National University of Lviv
79000, 1 Universytetska Str., Lviv, Ukraine
https://orcid.org/0000-0002-5592-4302

Abstract. Accessible justice and public and fair consideration of the case are important achievements of humanity, but Ukraine's legislation does not provide all the opportunities that can allow participants in the judicial process to influence the course of pre-trial investigation and judicial proceedings, which actualises the research on the subject. The purpose of the study was a comprehensive analysis and generalisation of various aspects of the exercise by private participants in criminal proceedings of the right to a fair and impartial consideration of a case by a court. The study was conducted on the basis of a number of general scientific methods and asynchronous comparative analysis of the previous and current criminal procedure legislation and practice of Ukraine, a number of international acts, acts of a recommendatory nature, case law of the European Court of Human Rights. The analysis of the Ukrainian criminal procedure legislation, considering its compliance with the provisions of European standards of access to justice allowed stating that, in general, these standards are met and sometimes even exceeded. Therewith, there are certain omissions and shortcomings of the national legislator in relation to certain special procedures of criminal proceedings – namely, proceedings based on agreements and proceedings in private prosecution cases. Such shortcomings groundlessly block and make it impossible for both parties to the criminal conflict to actually appeal to the court: the victim (or one who considers themselves as such), the suspect/accused, and persons who are not parties to a particular criminal proceeding but the interests of whom are directly affected by the court's decision. It was argued that the problems concerning the implementation of real access to justice in criminal proceedings in Ukraine have many insufficiently examined or rather controversial theoretical aspects, the legal regulation of certain provisions by the national lawmaker is far from generally recognised world and European standards and rules, and the relevant law enforcement practice is also imperfect. Therewith, it was stated that certain law enforcement, legislative, and theoretical problems still have effective solutions. The considerations and conclusions set out in the study can be used by the legislator when making changes and additions to certain regulatory legal acts and can be useful for both individuals and employees of criminal justice bodies

Keywords: access to justice; European guarantees; national standards; criminal proceedings; private prosecution cases; plea agreements

Introduction

The interest in ensuring access of participants in criminal proceedings to justice is not accidental. It is due to the fact that without the right of a person to freely apply for protection of their rights and legitimate interests to the bodies conducting criminal proceedings (in particular, directly to the court) and the ability to actively seek the adoption of a reasonable and legitimate court decision, the formation of a democratic state governed by the rule of law (and this is exactly what Ukraine has declared itself), it is impossible. Moreover, such guarantees are important not only for the victim or civil plaintiff but also for the opposite party to the criminal conflict – first of all, for the suspect/accused

Suggested Citation **Article's History**: Received: 03.03.2024 Revised: 25.05.2024 Accepted: 26.06.2024

Navrotska, V., & Boreiko, H. (2024). Public and fair consideration of a case by an impartial and independent court in criminal proceedings: European standards and Ukrainian realities. *Social & Legal Studios*, 7(2), 179-190. doi: 10.32518/sals2.2024.179.

*Corresponding author

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and the civil defendant. However, the powers granted by law for access to justice of individual actual (or potential) participants in criminal proceedings often do not correspond to the legal, socio-economic, criminological realities, and sometimes to the level of legal culture of many such persons. The criminal procedure legislation of Ukraine has undergone substantial additions and changes related to social and political transformations, due, in particular, to the recognition at the constitutional level of a person, their rights and freedoms of the highest social value (Constitution of Ukraine, 1996). However, this has not been adequately reflected in the authority of individuals to access justice. The relevant capabilities certainly need to be further expanded.

Many publications by both national and foreign researchers were devoted to the problems of real access to justice, including such an aspect of it as public and fair consideration of criminal proceedings by an impartial and independent court. The right to a public and fair hearing of a case by an impartial and independent court in criminal proceedings (as a component of the right to access justice) is traditionally recognised for all parties to a criminal conflict (both representatives of the prosecution and representatives of the defence). In addition, some specialists, in particular, A.A. Adebayo and A.O. Ugowe (2019) draw attention to the unacceptable accusatory bias of individual law enforcement officers, who a priori recognise a person who has the status of a victim as a victim of a criminal offence, and a suspect/accused as actually guilty. Therefore, in every possible way, they prevent the latter from exercising the rights with which he can prove their innocence or lesser guilt. Thus, those who are primarily responsible for assisting individuals in access to justice, in fact, block this right themselves. This problem was also analysed by K.S. Wallat (2019), demonstrating an extremely negative attitude to such situations and pointing out their absolute inadmissibility. V. Navrotska (2021) states that, unfortunately, unsuccessful legal regulation, negligence, and inattention of law-makers in individual countries also lead to the fact that sometimes the accused in private prosecution cases are provided with incomparably fewer guarantees and opportunities to defend their own interests in criminal proceedings than the victim. This is manifested, in particular, in ignoring at the legislative level quite fair requirements of the accused to continue criminal proceedings when a person with the status of a victim dropped out of the trial for various reasons – refused the accusation, did not arrive at the court session, died (Barbera & Protopapa, 2020).

In the context of the examination of the "promotion/benefits of protection" framework (*favour defensionis*), which consists in providing evidently "weaker" participants in criminal proceedings (for example, minors, persons with mental disorders, those who, due to physical disabilities, are not able to fully defend their interests independently) with additional guarantees and benefits (including those related to the possibility of their access to the bodies conducting criminal proceedings), Q. Robertson (2020), I. Elliott *et al.* (2020) indicate that these additional preferences and all possible assistance in the implementation of the relevant right are fully justified. Therewith, E. Durojaye *et al.* (2020), V. Navrotska and N. Ustrutska (2022) also draw attention to the reverse side of the relevant legal regulation, pointing out that sometimes the legislators of individual countries, in fact, equate such persons with virtually completely procedurally helpless ones. Thus, the state provides these participants with additional benefits but unreasonably takes away those legal opportunities that they could fully implement on an equal basis with persons with full procedural legal capacity.

A cursory analysis of the latest publications, which cover various aspects of the problems of ensuring the rights of private participants in the process of accessing justice (in particular, such a component as the right to a public and fair hearing of a case by an impartial and independent court), shows that these issues were by no means ignored in the legal literature. However, it is necessary to state that most of the papers are devoted to separate issues of participation of the victim in criminal proceedings and compensation for damage caused to them by a criminal offence or other socially dangerous act, participation of a person in respect of whom the issue of applying compulsory measures of a medical or educational nature is being resolved, or general aspects of access to justice of interested persons.

When regulating certain special procedures of criminal proceedings, the developers of the Criminal Procedural Code of Ukraine (2012) (hereinafter – CPC of Ukraine) did not consider certain European generally recognised minimum standards and rules, numerous proposals to strengthen the legal status of private participants in criminal proceedings, guaranteeing them real access to justice. It is necessary to state that the victim, the suspect/accused, and other interested persons in private prosecution and criminal proceedings when concluding plea agreements, are not endowed with all possible set of procedural powers that can provide them with real opportunities to influence the course of pre-trial investigation and trial, make a final decision that would fully reflect their interests. Therefore, the authors of the study aim to: 1) analyse the provisions of Ukrainian legislation regulating the procedure and form of participation of interested individuals in cases where criminal proceedings are conducted in the form of private prosecution, proceedings when concluding agreements in criminal proceedings, theoretical developments of this problem, and the practice of applying the relevant legal norms from the standpoint of considering the European standards of access to justice by the national lawmaker; 2) if necessary – express and justify proposals aimed at improving the relevant legal norms and the practice of their application.

Literature review

Undoubtedly, to make proposals for ensuring more effective access to justice for private participants in criminal proceedings, it is necessary, first of all, to analyse both the reasons and conditions that prevent such access and the circumstances that, on the contrary, contribute to ensuring that the right of the parties to a criminal conflict to a public and fair consideration of the circumstances of a case by an independent and impartial court does not remain an empty declaration set out on paper, but is actually effective and real. The relevant issues have been investigated to a certain extent in the legal literature.

In particular, C.P. Sabatino (2019), M. Woodbur (2020), and A. Storgaard (2023) consider access to justice not only as an important provision of the national legislation of any truly democratic state or the provisions of a number of international acts but also as an independent basis for criminal proceedings, as those minimum standards, "departure" from which is impossible under any conditions (in particular, during a state of war or emergency). L. Wing (2018)

and O.Y. Tuck Leong (2018) predict that in the foreseeable future, the widest possible use of artificial intelligence to help pre-trial investigation bodies and professional judges, their relief from the excessive volume of cases under consideration (which, in turn, will lead to access to justice for a larger circle of people), will become not fiction but an objective reality. Therewith, the mentioned researchers analyse the negative aspects of the use of artificial intelligence and draw attention to the fact that in criminal proceedings, there will still be those areas and issues that cannot be resolved without subjective discretion. Therefore, according to V.B. Davis (2019), the "machine" in justice will never completely displace or replace a living law enforcement/human rights officer with emotions, feelings, and certain attitudes. H. Reasoner (2019), H. O'nions (2020), and J. Sigafoos and J. Organ (2021) state an objective inequality in access to justice for persons with a low level of education and material support (compared to those whose socio-economic level is higher), highlighting a way to overcome or at least minimise such a situation, which is reduced, in particular, to providing such a category of defender at the expense of the state or certain charitable foundations. A number of specialists, in particular, I. Elliott *et al.* (2020) and K. Fitz-Gibbon and N. Pfitzner (2021) point out that, for the most part, employees of the bodies conducting criminal proceedings are ready to provide victims of crimes or other socially dangerous acts with maximum assistance and help in their access to justice. However, sometimes law enforcement officers do not know about the committed criminal offence due to the fact that the corresponding act was committed in conditions of non-evidence. They may not know about this act, first of all, because the victims themselves or eyewitnesses do not even try to apply with a demand to start criminal proceedings and bring the offender to justice, but it is impossible to get such information from other sources at a certain stage. The reasons for the absence of complaints about the committed criminal offence can be diverse. If such a reason is the lack of basic knowledge and skills in defending their interests related to legal ignorance, then for this purpose, B. Bilson *et al.* (2018). proposed to widely apply universal legal education (including, in particular, teaching schoolchildren, posting information about the conditions and procedure for contacting law enforcement officers in public places – at metro and bus stops, in supermarkets, in public libraries, etc.). Other researchers agree with this approach. Thus, K. Carrington *et al.* (2020), T. Hubbard *et al.* (2020), and R.A. Gonzalez (2020) emphasise that taking appropriate measures is a fairly effective means of promoting access to justice and defending the personal interests of victims of national and gender-based violence. The reason for the absence of appeals to law enforcement officers about the committed criminal offence on the part of private individuals (actual or potential participants in criminal proceedings) may also be fear caused by violence already committed or the threat of its use by the abuser – causer of harm or other interested persons. For this circumstance to not block the possibility of victims contacting law enforcement agencies, individual researchers, for example, D. Bonilla Maldonado (2020), propose to apply truly effective security measures and expand the grounds for their application and the category of persons who have the right to take appropriate measures.

Thus, the analysis of the positions expressed by experts allows identifying the following main reasons that prevent the participants of criminal proceedings from properly exercising their right to a fair, public, and impartial consideration of the case by the court: shortcomings of legal regulation in the relevant field, abuses on the part of law enforcement officers and the court itself, and sometimes – legal nihilism, the inability of individual private participants – parties to a criminal conflict to use existing and real legal opportunities and means to defend their rights and legitimate interests. Therewith, researchers of the relevant problem (in particular, the authors of this study) not only state that such negative manifestations can and should be dealt with but also provide specific recommendations for overcoming them.

Materials and methods

The research methods were chosen primarily considering its subject matter and the functions of the relevant legal and social phenomenon. Public and fair consideration of the case is considered as one of the main principles and goals of criminal proceedings, which is crucial for ensuring the interests of both the state and each of the participants in criminal proceedings.

The analysis is based on the approach of idealistic dialectics, which acts as a basis for applying a number of other general scientific and special scientific (legal) methods. The dialectical approach to public and fair consideration of a case is reflected in its consideration as a dynamic phenomenon characterised by constant development, in particular, in terms of ideas about what are the criteria for publicity and fairness and what is the impartiality and independence of the court, what standards should be guided in assessing the achievement of the relevant parameters of legal proceedings. Dialectics in the examination of the subject of this study also consists in the examination of the consideration of a case as such a phenomenon, characterised by many interrelated elements that are in system connections and interact both with each other and with higher-order systems. Ultimately, publicity and justice in criminal proceedings, in general, and in relation to judicial proceedings, in particular, are considered an indispensable component of democracy. In addition to that, the research methodology is aimed at showing how approaches to the relevant parameters of judicial consideration of criminal proceedings are changing in Ukraine in the direction of focusing on the best European and world practices. Thus, another general scientific approach that underlies this study is the systematic approach.

A component of the dialectical and systematic approach to analysing the problems raised in this publication is the analysis of the state of their research in the literature. Therewith, there are generally accepted and recognised provisions that are unconditionally accepted (in particular, that the fairness of judicial proceedings and the right to access justice are important values of a developed democratic society, the ideals of which Ukraine shares), positions on which discussions are being held, provisions that have not received proper consideration, at least in the national literature. It is on the latter that the main attention is focused. This includes, in particular, overcoming the accusatory bias in the activities of the criminal justice bodies of Ukraine, improving certain special procedures for criminal proceedings, ensuring European standards and best international practices of access to justice.

Along with these, other general scientific methods were also used in the examination of public and fair consideration of a case by an impartial and independent court. In particular,

the method of abstraction is used to avoid insubstantial differences between the legislation and law enforcement practices of Ukraine and other states. The induction method allowed identifying the characteristic features of publicity and justice in judicial proceedings and showing their importance for the implementation of human rights. The method of analysis and synthesis is used to analyse fair legal proceedings as a factor that serves the realisation of the rights not only of the defendant but also of the victim, the state, and society. Ultimately, it is the most important component of the rule of law in the criminal law aspect. Due to the appeal to the method of idealisation, an ideal model of ensuring publicity and justice, impartiality of judicial proceedings, is built on a balance between private and public interests, which is not related to national specifics and features of a particular historical period.

Special scientific methods were used due to the fact that the research is legal, more specifically, criminal procedure. Therefore, its important component is dogmatic analysis in the course of establishing the content of legal norms, law enforcement positions, and critical assessment of theoretical views expressed on the subject of this study. The method of comparative law is used to compare national law and the law of a number of foreign states to identify both positive legislative and law enforcement decisions that deserve to be perceived and norms and law enforcement positions in foreign law, which should be refrained from receiving in Ukraine. The same method is the basis for identifying the range of international legal obligations of Ukraine aimed at ensuring the independence of the court and the implementation of human rights in the field of criminal justice. Thanks to the use of this method, the Ukrainian criminal procedure legislation is evaluated for compliance with European standards of access to justice, its shortcomings are identified, and proposals are formulated to eliminate them. The historical approach (asynchronous comparison method) concerns comparing the provisions of previously existing and existing normative legal acts regulating the status of the court and the rights of participants in judicial proceedings. This approach ensures justice in resolving criminal proceedings and identifies patterns and trends in the development of legislation and law enforcement practice in the relevant part. The method of legal forecasting is used to predict how the Ukrainian model of criminal procedure will develop in terms of ensuring optimisation of the court's activities and achieving public and fair consideration of criminal proceedings.

In addition, other methods of scientific analysis were used to examine and solve partial issues. All methods are applied in interrelation, complement each other and allow achieving the truth and success of the search, consistency of the conclusions and scientific results obtained, and legislative and law enforcement proposals.

Results and discussion

The right to ensure free access to criminal proceedings, in particular, and its components, such as the right to a public and fair hearing of a case by an impartial and independent court, are based on the idea of a state governed by the rule of law, the existence of inalienable human rights, and the principle of separation of powers. The idea of free access to justice (along with the principle of independence of the judiciary) is the foundation of modern approaches to fair justice. It is generally accepted that ensuring the realisation of the rights of individuals (both individuals and legal entities) to judicial protection is and should be one of the priority areas of activity of any truly democratic state in the reform of criminal justice bodies. Therewith, there are discussions about what opportunities and powers can be used by real and potential participants in criminal proceedings, exercising their right to appeal to the court. The question of how fully recognised European guarantees and standards of the right to a public and fair hearing of a case by an impartial and independent court have found their manifestation in the regulation in Ukraine of one of the most widely used special procedures of criminal proceedings – proceedings based on plea agreements and cases where criminal proceedings are conducted in the form of private prosecution is controversial.

The right to a public and fair hearing of a case by an impartial and independent court in criminal proceedings is a component of the right to access justice. The concept of access to justice (under European and international human rights law) imposes obligations on states to guarantee the right of everyone to apply to a court (in extreme cases, to an alternative body resolving legal disputes) to obtain legal protection in situations where the applicant's rights have been violated. This right, in fact, helps a person to achieve the realisation of their other rights.

The right of access to justice (according to Articles 6, 13 of the European Convention on Human Rights (1950), Article 47 of the Charter of the European Union on Fundamental Rights (2020), approaches defended in the legal literature, in particular, V.P. Shibiko and M.S. Dankevich (2020), V.P. Shibiko (2022), and M.V. Savchyn *et al.* (2022), and reflected in numerous decisions of the European Court of Human Rights, among which the decision "Goldberg v. the United Kingdom" (1975) should be highlighted, is complex and includes the following elements: the right to a public and fair hearing by an impartial and independent court (or other body); the right to legal assistance; the right to legal advice, representation, and protection; and the right to an effective legal protection.

Considering the absolute complexity and versatility of the right of access to justice, and, consequently, the objective impossibility within the framework of one article to characterise and analyse (at least in passing) all aspects of this right and problems that arise (or may arise) in practice in connection with the improper (insufficient) implementation in the national (Ukrainian) legislation of provisions that would ensure the effective and most complete implementation of this right, it is necessary to refrain to analysing the first aspect (components) of access to justice.

A public and fair hearing of a case by an impartial and independent court means that access to justice is exercised through the courts, both in accordance with Article 6 of the European Convention on Human Rights (1950) and in accordance with Article 47 of the European Union on Fundamental Rights (2020), a person can apply to the court not only for criminal charges but also for the purpose of resolving disputes regarding civil rights/obligations – in particular, in the case of filing of claims in criminal proceedings). Article 6 of the above-mentioned Convention (European Convention on Human Rights, 1950) is also confirmed by the ECHR in the decision "Hornsby v. Greece" (1997), guarantees the right of the interested party to independently initiate a judicial review of the case. Access to a court is not an absolute right (in cases provided for at the national

level, this right may be restricted. The Strasbourg court, in the decisions "Goldberg v. the United Kingdom" (1975) and "Ashingdane v. the United Kingdom" (1985), indicates that it should be considered that such restrictions cannot violate the very essence of the right, they must have a legitimate purpose. The ECHR's decision in "McGinly and Egan v. The United Kingdom" (2000) states that there must be an appropriate proportional relationship between the goal set and the means used. The ECHR refers to legal restrictions, in particular, the statute of limitations established by law, but the right to restrict access to the court in connection with missing the deadline for applying to the court should be applied with a certain flexibility and without extreme formalism (Decision of the European Court of Human Rights in the Case No. 33658/04..., 2000), normative regulation of the right to appeal to the court of persons with limited legal capacity or incapacitated persons (Decision of the European Court of Human Rights No. 49069/11…, 2013), and minors (Decision of the European Court of Human Rights in the Case No. 14/1983/70/106…, 1985). The ECHR also states that the existence of procedural obstacles that reduce or hinder access to a court, in particular, an excessively strict interpretation of procedural rules by a national court, unjustified procedural formalism ("Purism"), can effectively deprive applicants of the right of access to a court (Decision of the European Court of Human Rights in the Case No. 28090/95..., 1998) – access to justice should not only be formal, but also real – the ECHR emphasises that the right of access to a court should be effective; there should not be too formal attitude to the requirements provided for by law (Decision of the European Court of Human Rights in the Case No. 15123/03…, 2007). Judges should be impartial and independent, for which the ECHR has established clear rules on guaranteeing the neutrality and independence of judges (which relate to the method of appointing a person to the position of judge, the system of guarantees against illegal external influence and pressure, and the term of their powers); however, the court is considered impartial until proven otherwise (and the judge must be impartial both subjectively and objectively) (Decision of the European Court of Human Rights in the Case No. 21825/93…, 2000).

In addition, the trial must be: fair (including the right to adversarial proceedings, equality of procedural means of the parties (Decision of the European Court of Human Rights in the Case No. 35227/06..., 2013), the right to make an informed decision, ensure the enforcement of a final decision) (Decision of the European Court of Human Rights in Case 4451/70..., 1975); public (which, except for the possible presence of the public at open/public court sessions (Decision of the European Court of Human Rights in the Case No. 48778/99…, 2002; Decision of the European Court of Human Rights in the Case No. 58112/00..., 2003), also provides for the presence in court of the person whose rights and interests relate to the proceedings, the ability to express their position and considerations on the merits of the case, and their ability to obtain information about available evidence or factual data that can be used as evidence (Drozdov, 2021). Thus, having analysed what the concept of "the right to a public and fair hearing of a case by an impartial and independent court" includes (as one of the components of the broader concept of "the right to access justice"), it is necessary to identify whether it is properly ensured in Ukraine.

The CPC of Ukraine (2012) has a number of provisions from which, in particular, a number of consequences follow. Firstly, everyone is guaranteed the right to a fair hearing and resolution of proceedings by an impartial and independent court, and everyone has the right to participate in the consideration of a case concerning their rights and obligations in a court of any instance. Secondly, as a general rule (unless otherwise provided by the CPC of Ukraine), the implementation of criminal proceedings by Ukrainian courts does not prevent a person's access to other means of legal protection, in particular, to the European Court of Human Rights (Paragraph 14 of Part 1 of Article 7, Part 2 of Article 7, Article 21), that the consideration of proceedings is, as a general rule, open and derogation from this provision is possible only in cases directly provided for by law (Part 2 of Article 27). Even when passing a verdict based on the results of special criminal proceedings "in absentia", the court must separately justify that the prosecution has resorted to all measures provided for by law to respect the rights of the suspect/accused to access justice (Part 5 of Article 374) (Criminal Procedural Code of Ukraine, 2012). Thirdly, despite the fact that Article 6 of the European Convention on Human Rights (1950) does not explicitly guarantee the right to appeal court decisions, and contracting states (including Ukraine) do not have obligations to establish courts of Appeal and Cassation, but the national legislator (given that the ECHR (Decision of the European Court of Human Rights in the Case No. 19075/91..., 1996), rightly considers the right to such an appeal an integral part of the right to defence and still provides participants in the process with such an opportunity, etc. However, the analysis of certain provisions of the CPC of Ukraine gives grounds for asserting that the legal regulation of the analysed law (and, consequently, the practice of its application) is far from perfect and from the standards that are consistently defended by the European Court of Human Rights in this regard.

Access to justice in private prosecution cases. The situation in Ukraine is ambiguous regarding the exercise of the right to a fair and public hearing by a fair court (as a component of the right to access justice) in private prosecution cases. In the new CPC of Ukraine (2012) in comparison with its "predecessor" – the CPC of Ukrainian SSR, 1960), there are a number of substantial advantages as well as obvious miscalculations, and there is also something that was not considered by the legislators in both codes.

The advantages include the fact that, first of all, the requirements that must be met by the appeal (which in this case is the only reason for starting criminal proceedings) of the relevant private person who considers themselves a victim of acts belonging to the category of private prosecution cases and seeks to bring the offender to justice and achieve punishment for what he has done have substantially changed. Thus, according to the CPC of Ukraine (1960), such an appeal (referred to as a "complaint") was, in fact, analogous to a prosecutor's indictment. Moreover, the code in force at that time provided for such requirements for complaints that a private person could not comply with in any way.

First of all, according to the provisions that existed at that time (literally interpreting the norm of CPC of Ukraine (1960), according to which the requirements for the victim's complaint were similar to the requirements for the indictment), the victim's complaint probably should have referred to, firstly, evidence (although the results of surveys,

objects, and documents, etc., collected by the victim (or, at least, those who consider themselves such), which could prove the involvement of their abuser in the act of which he was accused, were collected in an extra-procedural form, and, consequently, evidence at the time of their submission to employees there were no law enforcement agencies yet), and secondly, sheets of criminal proceedings (which was nonsense since criminal proceedings could not yet be initiated at the time of filing the complaint).

In addition, according to the provisions of the CPC of Ukraine (1960), the complaint necessarily contains little information about the abuser. However, it was objectively impossible to provide such information when a crime or other socially dangerous act was committed by a person who was previously unknown to the victim and, especially in conditions that exclude the possibility of further knowledge (for example, when a criminal offence was committed in complete darkness or in conditions when the victim could not recognise the attacker by other signs – by voice, smell, tactile sensations when the victim was unconscious at the time of the offence). Also, according to the provisions of the CPC of Ukraine (1960), any victim had to conduct a criminal qualification of what they had done. Proceeding from the fact that the average victim is a person who does not have a legal education, the necessary knowledge for this, then, surely, access to justice in such conditions is impossible.

The CPC of Ukraine (1960) also demanded that such a complaint (similar to the indictment) indicate circumstances that could mitigate the punishment of the alleged offender and the latter's arguments in their defence. Such a requirement created a situation when the victim, to file a complaint against their abuser, had to note that, for example, the latter committed a crime for the first time, was not previously brought to criminal or other types of legal liability, is positively characterised at the place of work, study, or residence, has a dependent pregnant wife and young children, has state awards, etc. Such a legislative requirement did not meet the basic requirements of morality and justice at all. In addition, it also went against the principle of dispositivity. According to this principle, the same body or the same person (from the standpoint of the law, it does not matter whether it is a private person, an employee of law enforcement, or human rights body) cannot be assigned radically opposite functions, in this case – the functions of prosecution and defense.

Since 2012, the situation on this issue has changed. After all, in the new CPC of Ukraine (2012), there is a single approach to all statements about criminal offences or other socially dangerous acts. A person who considers themselves a victim may inform a law enforcement officer in any written (or even oral) form about the committed act (Kaplina, 2024). The latter, if there is information in such an application about a committed crime, criminal offence or other socially dangerous act, is obliged to enter the data in the unified state register of pre-trial investigations and start proceedings.

The advantages of the CPC of Ukraine (2012) over the CPC of Ukraine (1960) in terms of better access to justice for a victim in private prosecution cases are not limited to this. Thus, until 2012, as a general rule, no pre-trial investigation was conducted in cases of this category. The legislator also provided for exceptions to this rule. This was possible, in particular, when such an act was committed by a minor or a person who, due to physical and/or mental disabilities, could not independently defend their interests or when the need for a pre-trial investigation was recognised as necessary (might not have been) by the court or prosecutor. With such legal regulation, the entire burden of collecting factual data that could be recognised as evidence fell on the shoulders of the victim. The situation at that time was nothing more than an actual denial of access to the court to the victim and frankly unfair because an ordinary private person never had (and as of 2024) the temporary, financial, intellectual (to conduct a proper investigation, special knowledge is required, which is acquired for months, or even years, in the course of special training), technical capabilities that law enforcement officers have. In addition, they cannot legally apply measures of physical coercion. Thus, the situation at that time, in which the victim in such acts, in fact, was deprived of the necessary assistance and assistance from the bodies conducting criminal proceedings, went against the relevant provisions of the "Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power" (1985). Considering the above, in the CPC of Ukraine (2012), pre-trial investigation becomes mandatory in all proceedings without exception (including private prosecution), which should be considered a positive development.

Therewith, there are provisions in the CPC of Ukraine (2012) that raise a number of questions, both considering the logic of the approaches covered in it and from the standpoint of properly ensuring the right to a public and fair hearing of a case by an impartial and independent court. In particular, it is not clear that there is no provision in the current CPC of Ukraine (2012) that provides for the right of a prosecutor to start investigating analysed criminal offences in the absence of a victim's statement when they simply cannot defend their interests independently due to certain objective circumstances (in particular, a helpless state, or even death). The existing legal regulation in this regard is difficult to explain due to the fact that the prosecutor has the right to independently, on their own initiative, file claims in the framework of criminal proceedings in the interests of individuals who, due to limited legal capacity, incapacity, improper health, etc., cannot defend their own rights (Paragraph 12 of Part 2 of Article 36).

The lack of such powers of the prosecutor (the ability in exceptional cases to initiate such criminal proceedings without the application of a private person – the victim) leads to the fact that the interests of such a victim will, in fact, be ignored. In some cases, this results in a gross violation of the principle of completeness and correctness of criminal legal qualification (Navrotska, 2021). For example, an unqualified rape of an adult, capable person was committed. In the future, so that the victim does not submit a corresponding statement about the crime to the bodies conducting the criminal process (and those, in turn, do not start criminal proceedings against the actual culprit), the offender kills the victim.

There is a question of qualification of what has been done. As for the further deprivation of the life of the victim of rape, this murder was committed with the aim of concealing the rape. However, under the current legal regulation, it is impossible to qualify what was committed collectively as simple/unqualified rape – Part 1 of Article 115 of the CPC of Ukraine and as murder committed with the aim of concealing a previous crime – Paragraph 9 of Part 2 of Article 115 of the same CPC of Ukraine Code (2012). For such a criminal legal assessment, it is necessary that the previous (predicate)

act is also classified as a crime. However, one of the signs of a crime (along with illegality, guilt, and punishability) is the public danger of what was committed. It also means that a certain act prohibited by the CPC of Ukraine causes or creates a real threat of causing substantial damage to the object/objects of criminal legal protection. In the case of committing acts for which criminal proceedings are conducted in the form of a private prosecution, the victim independently determines (in cases provided for by law, their legal representative does this) whether they were harmed. This is also evident in the submission of a corresponding application to employees of the bodies conducting criminal proceedings. If, in the opinion of the victim, no harm has been caused to them, then there are no grounds for claiming that there is a public danger in the act of the offender. Therefore, it is impossible to say that in such a situation, there was a rape. Accordingly, the subsequent unlawful deprivation of life cannot be qualified as premeditated murder with the aim of concealing another crime.

As already mentioned, in cases of the analysed category, the prosecutor cannot initiate criminal proceedings on their own initiative. The question arises as to whether other persons, including private ones, have the appropriate powers. Notably, such persons have such a right since, according to the provisions of Part 6 of Article 55 of the current CPC of Ukraine (2012), if the victim dies or is in a state in which it is impossible for them to submit an application as a result of a criminal offence, then their family members/close relatives are recognised as victims at their request. Subsequently, already having the status of victims, such subjects can seek to bring the offender of a person close to them to justice in criminal proceedings. However, it is also possible that the victim was a single person who did not have anyone who, by virtue of the provisions of Paragraph 1 of Part 3 of the CPC of Ukraine (2012), could be attributed to close relatives/family members.

It is possible that a living, procedurally helpless, or deceased victim has relatives, but they are completely passive. For example, because they are completely indifferent to the fate of the victim; they do not believe in the possibility of a proper and effective investigation of the act committed against them, restoring justice, and defending the truth; because of the low level of legal culture, they do not even know that they have the opportunity to acquire the appropriate legal status to defend both their own interests and the interests of the deceased relative; they themselves can commit an act that led to the helplessness or death of their close relative/family member (or otherwise be involved in this act), and, therefore, be not just disinterested in a full-fledged investigation, but also, on the contrary, to have the opposite interest – in its "blocking".

In connection with the possibility of the above situations, it is necessary to identify whether such a situation corresponds to the actual interests of the helpless victim or the lifetime interests of the deceased victim (in particular, the interests of access to justice and fair punishment of the offender). In this regard, it is worth stating that this is not the case. However, there is a way out of this situation. In the previously existing code, a provision was provided to defend both public interests and the interests of the victim in such situations, allowing the prosecutor to independently initiate criminal proceedings on their own initiative, despite the absence of a corresponding appeal from the victim – Part 3 of Article 27 of the Criminal Procedural Code of Ukrainian SSR (1960). The current CPC of Ukraine (2012) completely unjustifiably and unreasonably deprived the prosecutor of such powers. Therewith, the legislator has every opportunity to consider positive previous experiences and provide for (in fact, to reproduce) such a norm in the new Criminal Procedural Code.

Notably, when researchers refer to access to justice, they traditionally consider access to justice for victims of a criminal offence (Wallat, 2019; Hubbard *et al.*, 2020). Therewith, the vast majority of researchers and practitioners rightly point out that other participants in criminal proceedings also have this right. This applies, in particular, to the opposite party to the criminal conflict – the suspect/accused (Shibiko & Dankevich, 2020).

Therewith, it is necessary to state that in cases of the analysed category, the right of the accused to access justice – in particular, the right to demand the continuation of a trial that has already begun – can be blocked by a person who has the status of a victim including the one who acts clearly in bad faith. After all, a situation is not excluded in which a subject who is not actually a victim and who, reliably realising this circumstance, submits an absolutely false statement about the alleged commission of a criminal offence against them, thus trying to "get even" with someone with whom they have developed a hostile relationship, thus slandering an absolutely innocent person.

Therewith, the false victim can assume that in the future, in the course of a proper investigation: a) such a clear lie will be exposed, all their false accusations will be refuted, and the innocence of the accused will undoubtedly be proved by the evidence available in the case, b) possibly, the real victim of their actions (who now has the status of an accused), will even raise the question of bringing the "victim" themselves to criminal responsibility for deliberately false reporting of the commission of a crime before law enforcement officers, according to the Criminal Code of Ukraine (2001) – (Article 383) and/or for deliberately false testimony (Article 384). It is necessary to state that, in fact, such a false victim is provided by the legislator with quite legal ways to "retreat". Thus, according to the provisions of the CPC of Ukraine (2012), the refusal of the victim from the charge (Part 4 of Article 26) or repeated failure to appear at the court session without valid reasons (Part 6 of Article 340 of the Criminal Procedure Code of Ukraine) leads to the unconditional closure of criminal proceedings.

It can be assumed that the accused (as already mentioned, can be a completely innocent person) categorically objects to this, emphasising that the closure of criminal proceedings on the specified (non-rehabilitating) grounds does not suit them, demanding a full continuation of the trial and passing a verdict based on its results: a) acquittal – if their innocence is proved, or b) accusatory – if it cannot be proved. Such an interest of the accused is quite understandable both from a moral and legal standpoint. Primarily, an innocent person has the right to expect not the closure of the proceedings on any basis (including non-rehabilitating ones) but on which they should be. The fact that a person has the status of an accused person is not an automatic indication that they are actually guilty. Any participant in criminal proceedings (the accused in particular) has the right to defend their own position in the process, regardless of the position and considerations of their procedural opponent. The fact

that the position of a person who has the status of a victim is crucial (since their refusal to charge or repeated failure to appear for non-valid reasons is an unconditional, mandatory basis for closing the proceedings), and the desire of the accused is completely ignored, seems to indicate a clear departure from the adversarial principle declared by the legislator (Criminal Procedural Code of Ukraine, 2012), according to which the parties enjoy equal procedural rights in proving the credibility of their position before the court. If someone who has the status of a victim (due to their refusal to charge or repeated failure to appear for non-valid reasons) drops out of the proceedings, then one of the representatives of the prosecution is still present – since now the participation of the prosecutor in any criminal proceedings (including cases of private prosecution) is mandatory. The prosecutor, as a champion of the rule of law, the one who must be objective and impartial, is obliged to establish the truth in the case and defend the legitimate interests of any participants in the process (and, if necessary, the one whom they accuse).

The fact that a person who has the status of a victim (and who may actually be a false victim) refuses to be charged or does not appear at the court session for non-valid reasons (the reason for this participant by virtue of the provisions of Part 3 of Article 140 does not mean that the truth in the proceedings cannot be established without them (Criminal Procedural Code of Ukraine, 2012). Surely, without their testimony and active participation in the trial, it will be much more difficult for the prosecutor, but it is not impossible because the testimony of an accused who categorically denies their guilt or any involvement in the act incriminated to them is also an independent source of evidence, and an equivalent source along with others (in particular, the incriminating testimony of someone who has the status of a victim). In addition, during the trial, a number of other evidence can be examined – physical evidence, expert opinions, witness statements, documents, on the basis of which it is possible to come to a reliable and indisputable conclusion that the accused could not have committed the act of which they are accused.

Therefore, to properly ensure the access of such an accused to justice, it is necessary to provide in the CPC of Ukraine (2012) a provision from which it would follow that even in the event of a refusal (active or passive – in the form of non-appearance) of a private prosecutor from the prosecution, the position of the accused themselves should be crucial. If the latter agrees to the closure of the proceedings on a non-rehabilitating basis, the proceedings are subject to closure. However, if they insist on continuing criminal proceedings in the general order, their position must be considered.

Access to justice in the conclusion of transactions in criminal proceedings. According to the provisions of the CPC of Ukraine (2012), everyone is guaranteed the right to a fair trial and a decision on the case by an impartial and independent court. In addition, everyone has the right to participate in the consideration of a case concerning their rights and obligations in a court of any level. Therewith, to ensure the rights and interests of the suspect or accused, the legislator established the principle of direct examination of evidence in criminal proceedings.

However, the provisions of Part 1 of Article 392 and Part 4 of Article 394 of the CPC of Ukraine (2012), which establish restrictions on the right to appeal against a verdict issued on the basis of a plea agreement, do not guarantee everyone a right to access justice. In this regard, it is appropriate to provide arguments to confirm this position. One of them is Article 14 of the International Covenant on Civil and Political Rights (1966), in particular, that "everyone who is convicted of any crime has the right to have their conviction and sentence reviewed by a higher court in accordance with the law". Therewith, in the decision of the ECHR in the case "Rostovtsev v. Ukraine" (2017), the court emphasises that any restrictions on the right to review contained in national legislation should, by analogy with the right of access to a court, covered by Article 6 (1) of the European Convention on Human Rights (1950), pursue a legitimate goal and not violate the very essence of this right.

Part 4 of Article 394 of the CPC of Ukraine (2012) defines a special group of persons who have the right to appeal the decision of the Court of First Instance on a plea agreement. Such persons include the prosecutor, the suspect/accused, their defence lawyer or representative, and solely on the grounds provided for by law. The accused, their defence lawyer or their representative may file an appeal under certain conditions: if the court imposes a more severe penalty than stipulated in the plea agreement, passes a sentence without the accused's consent to the punishment, or does not comply with the requirements provided for in parts 4, 6, 7 of Article 474 of the CPC of Ukraine, does not explain the consequences of the agreement. Conversely, a prosecutor may file an appeal in the following circumstances: if the court imposes a more lenient sentence than stipulated in the plea agreement or if the court approves an agreement in proceedings in which, in accordance with Part 4 of Article 469 of the CPC of Ukraine (2012), such an agreement cannot be concluded.

Given the established restrictions on the grounds of appeal and the persons entitled to appeal against such decisions, prosecutors practice plea agreements in which other persons are referred to as persons who took part in the commission of a criminal offence related to the actions of a suspect/accused. This refers to the actual accomplices of the suspect/accused, who, however, are not parties to the concluded transaction.

Thus, prosecutors artificially create a precedent for the guilt of these individuals, although they were not a party to the transaction. Their guilt is not proved by any evidence other than the testimony of the suspect/accused. The "entry" into the agreement, and subsequently into the verdict on the basis of the agreement, of any person whose guilt is not confirmed by evidence but who is indicated as an accomplice to the commission of a criminal offence undoubtedly violates their rights, freedoms, and interests. The issue of ensuring the rights of these individuals remains inconsistent in judicial practice. Some courts consider that such decisions can be appealed using the provisions of the Ukrainian Constitution, while others limit themselves only to the provisions of the CPC of Ukraine (2012), which define the categories of persons entitled to file appeals. In the decision of the Supreme Court of Ukraine of 03.03.2016 in the Case No. 5-347ks-15 (2016), the court stated that the absence of other persons in the exhaustive list of subjects of appeal provided for in Article 394 is not an obstacle to access to justice and appeal to a higher court, which is provided for in Part 2 of Article 24 of the CPC of Ukraine (2012).

Such a decision is correct, but in this case, the court (and not the legislator) defends the rights, freedoms, and

interests of persons affected by the verdict, acts as a lawmaker, and assumes functions that are not typical of it. Therefore, it seems appropriate to supplement the CPC of Ukraine with provisions that would allow other persons whose rights, freedoms, and interests are affected by a verdict adopted on the basis of a plea agreement to appeal such a verdict. However, given the absence of a direct indication in Article 470 of the CPC of Ukraine (2012) on the need to prove the guilt of a suspect/accused, prosecutors do not establish the circumstances provided for in Article 91 that are subject to proof but conclude agreements in which third parties are indicated. These persons mentioned in the texts of the agreements are allegedly involved in the commission of a crime to support the proven guilt of the suspect/accused.

I. Kanyuka (2015) proposed to supplement the current CPC of Ukraine (2012) with a new article 475-1, "Meaning of information contained in a plea agreement", with the following content to strengthen procedural guarantees for those who participate in criminal proceedings: "information specified by the parties in a plea agreement approved by a court verdict in relation to any circumstances that relate to the essence of suspicion, accusation, has no prejudicial importance for the court or for the investigator or prosecutor in other criminal proceedings". Such a proposal deserves full support since the outlined norm will serve to eliminate illegal criminal prosecution of third parties.

Along with this, in practice, there are cases when the prosecutor enters into codes, and the court approves a plea agreement concluded with a gross violation of the right to defence. Mandatory participation of a defence lawyer in cases of this category is one of the important guarantees of respect for the rights, freedoms, and interests of the suspect/accused. Despite the provisions of Paragraph 9 of Part 2 of Article 52 of the CPC of Ukraine (2012) on the mandatory participation of a defence lawyer in plea agreements, prosecutors do not always comply with this requirement. For example, in the Case No. 748/1039/20, the Chernihiv District Court of the Chernihiv region, by its decision of 01.07.2020, approved an agreement between the prosecutor and the suspect, which was concluded without the participation of a lawyer (Decision of the Chernihiv District Court..., 2020). This was allowed because the suspect did not submit a request for the participation of a defence lawyer, did not object to the consideration of the case without the participation of a defence lawyer, and was fully aware of their rights and the consequences of the agreement concluded. The court motivated its decision by the absence of grounds for refusal under Part 7 of Article 474 of the CPC of Ukraine (2012). Subsequently, a higher-level prosecutor appealed against this verdict on appeal. However, the Court of Appeal rejected the appeal, citing that such an appeal was contrary to the provisions set out in Paragraph 2 of Part 4 of Article 394 of the CPC of Ukraine (2012). Ultimately, the legislator restricted the right of the prosecutor to appeal against sentences concluded on the basis of agreements, and there are no grounds when the verdict can be appealed in this case. Notably, such a court decision is subject to cancellation in any case because Paragraph 4 of Part 2 of Article 412 of the CPC of Ukraine (2012) provides that the decision is subject to cancellation if it is made in the absence of a defender if their presence is mandatory. However, in such a case, the legislator does not grant the right to appeal against the verdict adopted on the basis of a plea agreement, either to the suspect/accused or to a higher prosecutor, who must ensure the protection of the rights of participants in criminal proceedings. Thus, the suspect/accused is deprived of the right of access to justice.

A plea agreement saves time and resources, but there are also drawbacks that are worth paying attention to. These include the potential for abuse of the judicial system, violation of legal and constitutional principles, creating conditions for prosecutorial and judicial arbitrariness, and potential conflicts of interest between defence lawyers and accused persons. In addition, it can lead to a reduction in the punishment of offenders and increase the likelihood of passing wrongful sentences. Thus, before implementing such a mechanism, it is necessary to conduct a comprehensive assessment of its possible consequences and formulate a clear legal framework to prevent potential abuses and legislative gaps (Boreiko, 2022).

Based on an analysis of the legislation of individual European countries regarding the legal regulation of appeals against sentences based on agreements, it was determined that the Criminal Procedure Code of Portugal (1987) noted that the subject of a plea agreement, among other things, is the refusal of the accused, their defence lawyer and prosecutor from the right to appeal a court decision based on a plea agreement, if the court recognised the agreement in full. Therewith, the court verifies whether the accused understands the consequences of the agreement when approving a plea agreement, in particular, that it waives the right to a trial and that they will not be able to appeal a court decision made on the basis of the agreement. Thus, the Portuguese legislator also restricted the right of individuals to appeal a sentence on the basis of agreements, considering specific grounds. According to Article 444 of the Criminal Procedure Code of the Italian Republic (1988), a plea agreement results in the accused refusing to challenge the charge in exchange for a reduced sentence by imposing a less severe penalty than is provided for the crime committed, or reducing the maximum amount (term) of a fine or imprisonment by one-third. However, Sweden and Iceland rejected the introduction of non-sensuous methods in criminal proceedings (Ervo, 2014). This decision is due to the fact that the form of criminal investigation in these countries does not correspond to national procedural traditions, in particular, the absence of mandatory judicial proceedings and the inadmissibility of immunities from prosecution.

Thus, each state independently decides whether to apply the institution of plea agreements. Therewith, an important factor in this choice is the desire to protect participants in criminal proceedings from abuse in its application and ensure the right to a fair and impartial consideration of the case by the court. It seems that one obstacle to exercising such a right is the restriction of the prosecutor's right to appeal against a verdict based on a plea agreement.

Conclusions

The above gives grounds for the following conclusions. Public and fair consideration of a case by an impartial and independent court as one of the elements of accessible justice is a complex and multifaceted phenomenon with a wide variety of manifestations. Therefore, it will be relevant for further research for quite a long time. The undoubted advantage of the new CPC of Ukraine 2012 in comparison with the previously existing CPC of Ukraine 1960 in matters of access

to justice for the victim of a criminal offence in the case of acts committed in the form of private prosecution is the introduction of mandatory pre-trial investigation and the absence of strict requirements for the victim's application-the only reason to start such criminal proceedings. It is argued that the Ukrainian legislator's approach is fully consistent with the relevant practice of the European Court of Human Rights. Therewith, the lack of the prosecutor's authority to independently, on their own initiative, conduct in exceptional cases criminal prosecution of an offender who has committed acts belonging to the category of private prosecution cases sometimes leads to incompleteness and inaccuracy of the criminal legal qualification of the committed, to ignoring the legitimate interests of a helpless or even deceased victim to access justice to defend their right to bring the offender to criminal or other types of legal liability. Legal, but frankly unfair and contrary to the idea of free access to justice, is the deprivation by the Ukrainian legislator of the accused in private prosecution cases of the right to demand the continuation of the trial and the adoption of an acquittal (and not to be content with the closure of criminal proceedings on non-rehabilitative grounds) in a situation in which a person who has the status of a victim actively or passively refused to charge, but the accused considers themselves completely innocent, not involved in the commission of the act incriminated to them.

Considering the principle of the rule of law, the institution of plea agreements requires strengthening guarantees for the protection of the rights and freedoms of participants in criminal proceedings and introducing a more advanced procedure for its consideration by the court. Restriction of the right to appeal a court verdict on the basis of an agreement on the admission of guilt of accomplices in the allocated proceedings, or persons indicated by the accused as actual accomplices, grossly violates the rights and legitimate interests of these persons, does not contribute to the effective performance of the tasks of criminal proceedings and does not ensure proper access to justice. Therefore, it is proposed to provide for provisions in Part 4 of Article 394 of the CPC of Ukraine that would grant the right to both the highest-level prosecutor and any persons whose rights and interests are violated by the plea agreement the right to appeal the verdict adopted on the basis of the agreement.

Promising areas of future research in the subject are the formation of new standpoints and concepts in the course of the analysis of the right of access to justice of obviously "weaker" participants in criminal proceedings – those who need to apply additional procedural guarantees: persons in respect of whom the issue of applying compulsory measures of an educational or medical/psychiatric nature is being resolved.

Acknowledgements

The study was conducted with the financial support of the European Union

Conflict of interest

The views and opinions expressed in the publication belong exclusively to the author(s) and do not necessarily reflect the position of the European Union or the European Education and Culture Executive Agency (EACEA). Neither the European Union nor the European Education and Culture Executive Agency (EACEA) are responsible for them.

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Публічний та справедливий розгляд справи безстороннім та незалежним судом у кримінальному провадженні: європейські стандарти та українські реалії

Віра Навроцька

Кандидат юридичних наук, доцент
Львівський державний університет внутрішніх справ
79000, вул. Городоцька, 26, м. Львів, Україна
https://orcid.org/0000-0002-3407-7984

Галина Борейко

Кандидат юридичних наук, доцент
Львівський національний університет імені Івана Франка
79000, вул. Університетська, 1, м. Львів, Україна
https://orcid.org/0000-0002-5592-4302

Анотація. Доступне правосуддя, публічний та справедливий розгляд справи є важливим досягненням людства, однак законодавством України забезпечені далеко не усі можливості що здатні забезпечити реальні можливості для учасників судового процесу впливати на хід досудового розслідування та судового розгляду, що актуалізує дослідження тематики. Метою статті був комплексний аналіз та узагальнення різних аспектів реалізації приватними учасниками кримінального судочинства права на справедливий та безсторонній розгляд справи судом. Дослідження здійснено на основі ряду загальнонаукових методів та асинхронного порівняльного аналізу раніше та нині діючого кримінального процесуального законодавства та практики України, низки міжнародних актів, актів рекомендаційного характеру, прецедентної практики Європейського суду з прав людини. Аналіз українського кримінального процесуального законодавства з огляду на дотримання у ньому положення європейських стандартів доступу до правосуддя, дозволив констатувати, що в цілому ці стандарти дотримані, а інколи – навіть перевершені. Водночас, стосовно деяких особливих порядків кримінального провадження – а саме проваджень на підставі угод та проваджень у справах приватного обвинувачення – існують певні упущення й недопрацювання вітчизняного законодавця. Такі недоліки безпідставно блокують та унеможливлюють реальне звернення до суду як обох сторін кримінального конфлікту: і постраждалого (чи того, хто таким себе вважає), і підозрюваного /обвинуваченого, так й осіб, котрі не є сторонами конкретного кримінального провадження, проте інтереси яких напряму зачіпаються прийнятим судом рішення. Стверджується, що проблеми, котрі стосуються реалізації реального доступу до правосуддя у кримінальних провадженнях в Україні, мають чимало недостатньо досліджених або й доволі дискусійних теоретичних аспектів, правове регулювання певних положень національним правотворцем далеке від загальновизнаних світових та європейських стандартів і правил, недосконалою є й відповідна правозастосовна практика. Водночас констатовано, що окремі правозастосовні, законотворчі та теоретичні проблеми усе ж мають дієві варіанти вирішення. Міркування та висновки, викладені у статті, можуть бути використані законодавцем при внесенні змін та доповнень до окремих нормативно–правових актів, можуть бути корисними як приватним особами, так і працівникам органів кримінальної юстиції

Ключові слова: доступ до правосуддя; європейські гарантії; національні стандарти; кримінальне провадження; справи приватного обвинувачення; угоди про визнання винуватості