

ACCESS TO JUSTICE IN THE CONTEXT OF UKRAINE'S EUROPEAN INTEGRATION: CIVIL PROCEDURE, MEDIATION, ADVOCACY AND ENFORCEMENT OF DECISIONS IN THE CONTEXT OF EU STANDARDS AND INTERNATIONAL LAW

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The article examines the complex issues of ensuring access to justice in Ukraine in the context of active European integration processes, which necessitate the systemic transformation of national civil procedural legislation, institutions of alternative dispute resolution, the legal profession and enforcement proceedings in accordance with the standards of the European Union and the practice of the European Court of Human Rights. The relevance of the topic is due to the strengthening of requirements for the efficiency of the judicial system, guaranteeing real, rather than formal, access to justice, as well as the implementation of the principle of the rule of law as a basic condition for Ukraine's membership in the EU.

*The paper provides a theoretical and legal analysis of the concept of «access to justice» as a multidimensional legal category that encompasses not only the possibility of applying to court, but also the real ability of a person to receive a fair trial within a reasonable time and ensure effective enforcement of a court decision. It is emphasized that according to the practice of the ECHR (in particular, in the cases of *Golder v. United Kingdom*, *Hornsby v. Greece*), the right to a court is illusory without an effective mechanism for the*

enforcement of decisions and proper procedural guarantees.

Special attention is paid to the transformation of civil procedural law of Ukraine, which is manifested in the implementation of the principles of adversarial, proportionality, digitalization of judicial proceedings and the development of e-justice. At the same time, the presence of systemic problems has been established, in particular, excessive duration of case consideration, procedural formalism and inequality of procedural opportunities of the parties, which requires further improvement taking into account European standards of effective judicial proceedings.

The study analyzes the role of mediation as an alternative method of resolving civil disputes, which corresponds to the concept of “user-friendly justice” in the EU. It is determined that the adoption of the Law of Ukraine “On Mediation” has created a regulatory basis for the development of this institution, however, its practical application remains limited due to the insufficient level of legal culture and the lack of established practice of out-of-court dispute resolution.

The importance of the bar as a key element of the system of guarantees of the right to a fair trial is

investigated. It is emphasized that, in accordance with European standards, the bar should function as an independent institution that provides effective legal protection, compliance with procedural guarantees and promotes peaceful resolution of disputes. At the same time, the issues of improving the quality of free legal aid, strengthening the institutional independence of the bar and its more active participation in mediation procedures remain relevant in Ukraine.

A separate block of the study is devoted to the issue of the execution of court decisions as an integral component of the right to a fair trial. It is established that the low level of execution of court decisions, institutional shortcomings of the executive service and the insufficient development of the institution of private bailiffs remain one of the key systemic problems of the national legal system. In this context, the need for further harmonization of enforcement proceedings with the standards of the Council of Europe and the practice of the ECHR is emphasized.

In general, the article substantiates that effective provision of access to justice in Ukraine is possible only under the condition of a comprehensive reform of the civil process, the development of alternative dispute resolution methods, strengthening the role of the legal profession and increasing the efficiency of enforcement proceedings. The conclusion is made about the need for systematic implementation of European standards into the national legal system as a key factor in increasing trust in the judiciary and ensuring the real rule of law.

Keywords: civil procedure, international law, labor law, mediation, advocacy, enforcement proceedings, EU institutions.

Ukraine's European integration course is a determining factor in the transformation of the national legal system, covering all key institutions of justice, in particular civil justice, alternative dispute resolution, the legal profession and the system of enforcement of court decisions. In this context, ensuring real, effective and non-discriminatory access to justice as one of the fundamental principles of the rule of law, enshrined in Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms and confirmed by the established case law of the

European Court of Human Rights, is of particular importance [1].

The modern understanding of access to justice goes beyond the formal possibility of applying to court and provides for a comprehensive system of guarantees that ensure effective protection of violated rights within reasonable time and with real enforcement of court decisions. European standards of justice, in particular those developed in the acts of the Council of Europe and the legal positions of the ECHR, consider access to justice as a multi-level legal category that covers procedural, institutional and organizational aspects of the functioning of the judicial system [2].

In the context of European integration, Ukraine is obliged to ensure the implementation of the *acquis communautaire* in the field of civil procedural law and related institutions, which involves harmonizing national legislation with EU standards on the efficiency of judicial proceedings, alternative dispute resolution and enforcement of court decisions. Of particular importance is also the adaptation of legal mechanisms to the principles of proportionality, procedural economy and «user-friendly justice», which are characteristic of the European legal tradition [3].

The relevance of the study is due to the presence of systemic problems in the field of access to justice in Ukraine, including: excessive duration of court proceedings, insufficient efficiency of enforcement of court decisions, limited practical application of the institution of mediation, as well as the need to further strengthen the institutional capacity of the legal profession as a guarantor of the right to defense. These problems are of particular importance in the context of Ukraine's European integration obligations and the need to ensure the compliance of the national legal system with the criteria for membership in the European Union [4].

Special attention in modern scientific doctrine is paid to the transformation of civil procedural law, which is gradually moving from a purely formalized model to a more flexible one focused on the effective protection of human rights. The introduction of electronic justice, the development of alternative dis-

pute resolution methods, and the strengthening of the role of the legal profession are key elements of this transformation, which is aimed at increasing the accessibility and efficiency of justice [5].

In this context, the study of the role of mediation as a tool for relieving the burden on the judicial system and forming a culture of voluntary dispute resolution is of particular importance. At the same time, it requires scientific understanding of the issue of the ratio of judicial and extrajudicial protection of rights, as well as determining the limits of the lawyer's participation in mediation procedures [6].

Thus, a comprehensive analysis of the issues of access to justice in the context of European integration allows not only to identify existing shortcomings of the national legal system, but also to outline strategic directions for its improvement, taking into account European standards and international obligations of Ukraine. This determines the scientific and practical significance of research aimed at forming an effective, fair, and human-centered justice system.

Mediation as a tool of the European model of justice

Mediation in modern European legal doctrine is considered as one of the key tools of alternative dispute resolution (ADR), which is aimed at increasing the efficiency of justice, reducing the burden on the judicial system and ensuring a more flexible and client-oriented approach to protecting the rights and interests of individuals. In European Union law, the development of mediation is based on the provisions of Directive 2008/52/EC, which enshrines the principles of voluntariness, confidentiality, equality of parties and neutrality of the mediator [7].

The European model of justice is based on the concept of "user-friendly justice", within which the state not only guarantees access to the court, but also actively stimulates the use of out-of-court dispute resolution mechanisms. In this context, mediation is not an alternative to the court in the narrow sense, but its functional complement, which allows for faster, less costly and socially effective conflict resolution.

In Ukraine, the institutionalization of mediation took place with the adoption of the Law of Ukraine "On Mediation" (2021), which laid the legal foundations for the implementation of this mechanism in the national legal system. At the same time, the practical application of mediation remains limited due to the insufficient level of legal culture, the lack of established judicial practice of referring parties to mediation, and the lack of public awareness of the advantages of out-of-court dispute resolution [8].

In civil proceedings, mediation can play an important role at all stages of dispute resolution - both before the appeal to the court and during the trial. Its development contributes to the implementation of the principles of procedural economy, dispositivity and proportionality, which meets European standards of effective justice [9].

The role of the legal profession in ensuring access to justice

The legal profession is one of the key institutions guaranteeing the right to a fair trial, since it is it that provides professional legal protection of a person in civil, administrative and criminal proceedings. In the context of European standards, the bar is considered an independent and self-governing institution that functions as a necessary element of the system of checks and balances in a state governed by the rule of law.

In accordance with international instruments, in particular the UN Basic Principles on the Role of Lawyers (1990) and the recommendations of the Council of Europe, the independence of the bar is a prerequisite for ensuring effective access to justice. A lawyer not only represents the interests of the client in court, but also performs the function of a legal intermediary between the individual and the state, ensuring a balance between private and public interests[10].

In Ukraine, the bar plays an important role in the implementation of the right to protection, however, there are certain problems related to the quality of legal aid, the availability of free legal aid, as well as the level of involvement of lawyers in alternative dispute resolution methods, in particular mediation. Strengthening the role of a lawyer as a me-

diator or facilitator of the negotiation process corresponds to modern European trends in the development of the legal profession.

Thus, the legal profession acts not only as a procedural representative, but also as a key element in ensuring real access to justice, especially for socially vulnerable categories of the population [11].

Enforcement of court decisions as a component of the right to a fair trial

The effective enforcement of court decisions is an integral part of the right to a fair trial, which follows from Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms and has been repeatedly confirmed by the case law of the European Court of Human Rights. In the case of *Hornsby v. Greece*, the Court directly noted that the right of access to a court would be illusory if the national legal system allowed a final, binding court decision to remain unenforced to the detriment of one of the parties.

Enforcement of court decisions is the final stage of judicial protection, which ensures the real restoration of violated rights and interests. Without effective enforcement proceedings, a court decision loses its legal and factual value, and access to justice itself becomes formal [12].

In Ukraine, the system of enforcement of court decisions is represented by both the state enforcement service and the institute of private enforcement officers. The introduction of a mixed model has become an important step towards increasing the efficiency of enforcement proceedings, however, in practice, problems remain related to the low level of actual enforcement of decisions, abuse of procedural mechanisms by debtors, as well as insufficient resource capacity of enforcement bodies.

European standards require ensuring not only the formal possibility of enforcing court decisions, but also the creation of effective, operational and efficient mechanisms of forced enforcement. This includes a proper balance between the interests of the creditor and the debtor, transparency of enforcement procedures, as well as effective judicial control over the actions of enforcement officers [13].

Thus, the execution of court decisions is a final, but critically important element of the justice system, without which it is impossible to ensure the real operation of the rule of law and the effective protection of human rights [14].

Conclusions. The conducted research allows us to state that ensuring access to justice in Ukraine in the context of European integration is becoming complex, multidimensional and covers not only procedural guarantees of applying to court, but also the effectiveness of the entire mechanism of judicial protection, including alternative dispute resolution methods, the activities of the legal profession and the stage of enforcement of court decisions.

Firstly, it has been established that the European approach to access to justice is based on the standards of the European Union and the practice of the ECHR, according to which the right to a court is real only if there are effective procedural mechanisms, reasonable terms for considering cases and mandatory enforcement of court decisions. Thus, formal access to court without proper implementation of its results does not meet the requirements of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Secondly, it has been proven that mediation is an important element of the European model of justice, which contributes to relieving the burden on the judicial system, increasing the effectiveness of rights protection and forming a culture of voluntary dispute resolution. At the same time, in Ukraine this institution is at the stage of formation, which requires further development of legal culture, improvement of legislative regulation and more active involvement of courts and lawyers in mediation procedures.

Thirdly, it has been established that the legal profession plays a system-forming role in ensuring access to justice, as it guarantees professional legal protection, equality of parties in the process and effective implementation of the right to a fair trial. At the same time, increasing the role of a lawyer in out-of-court procedures, in particular mediation, corresponds to modern European trends in

the development of the legal profession and contributes to more effective dispute resolution.

Fourthly, it has been proven that the execution of court decisions is an integral part of the right to a fair trial, since it is at this stage that the actual implementation of judicial protection takes place. The existing problems of enforcement proceedings in Ukraine, in particular the low level of execution of decisions and institutional shortcomings of the system, require further reform taking into account European standards of efficiency and efficiency.

Summarizing the above, we can conclude that effective access to justice in Ukraine is possible only under the condition of comprehensive reform of the civil process, development of the institution of mediation, strengthening of guarantees of independence and professionalism of the legal profession, as well as increasing the efficiency of the system of execution of court decisions. The implementation of these areas is a necessary condition for harmonizing the national legal system with the standards of the European Union and ensuring the real rule of law in Ukraine.

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ДОСТУП ДО ПРАВОСУДДЯ В УМОВАХ ЄВРОІНТЕГРАЦІЇ УКРАЇНИ: ЦИВІЛЬНИЙ ПРОЦЕС, МЕДІАЦІЯ, АДВОКАТУРА ТА ВИКОНАННЯ РІШЕНЬ У КОНТЕКСТІ СТАНДАРТІВ ЄС І МІЖНАРОДНОГО ПРАВА

У статті досліджено комплексну проблематику забезпечення доступу до правосуддя в Україні в умовах активних євроінтеграційних процесів, що зумовлюють необхідність системної трансформації національного цивільного процесуального законодавства, інститутів альтернативного вирішення спорів, адвокатури та виконавчого провадження відповідно до стандартів Європейського Союзу та практики Європейського суду з прав людини. Актуальність теми зумовлена посиленням вимог до ефективності судової системи, гарантування реального, а не формального доступу до правосуддя, а також імплементацією принципу верховенства права як базової умови членства України в ЄС.

У роботі здійснено теоретико-правовий аналіз поняття «доступ до правосуддя» як багатовимірної правової категорії, що охоплює не лише можливість звернення до суду, але й реальну спроможність особи отримати справедливий судовий розгляд у розумний строк та забезпечити ефективно виконання судового рі-

шення. Наголошено, що відповідно до практики ЄСПЛ (зокрема, у справах *Golder v. United Kingdom*, *Hornsby v. Greece*), право на суд є ілюзорним без дієвого механізму виконання рішень та належних процесуальних гарантій.

Окрему увагу приділено трансформації цивільного процесуального права України, яка проявляється у впровадженні принципів змагальності, пропорційності, цифровізації судочинства та розвитку електронного правосуддя. Водночас встановлено наявність системних проблем, зокрема надмірної тривалості розгляду справ, процесуального формалізму та нерівності процесуальних можливостей сторін, що потребує подальшого вдосконалення з урахуванням європейських стандартів ефективного судочинства.

У межах дослідження проаналізовано роль медіації як альтернативного способу вирішення цивільно-правових спорів, який відповідає концепції «дружнього до користувача правосуддя» (*user-friendly justice*) в ЄС. Визначено, що прийняття Закону України «Про медіацію» створило нормативне підґрунтя для розвитку цього інституту, однак його практичне застосування залишається обмеженим через недостатній рівень правової культури та відсутність усталеної практики позасудового врегулювання спорів.

Досліджено значення адвокатури як ключового елементу системи гарантій права на справедливий суд. Підкреслено, що відповідно до європейських стандартів адвокатура має функціонувати як незалежний інститут, який забезпечує ефективний правовий захист, дотримання процесуальних гарантій та сприяє мирному вирішенню спорів. Водночас в Україні актуальними залишаються питання підвищення якості безоплатної правової допомоги, посилення інституційної незалежності адвокатури та її активнішої участі у медіаційних процедурах.

Окремий блок дослідження присвячено проблематиці виконання судових рішень як невід'ємної складової права на справедливий суд. Встановлено, що низький рівень виконання судових рішень, інституційні недоліки виконавчої служби та недостатній розвиток інституту приватних виконавців залишаються одними з ключових системних проблем національної правової системи. У цьому контексті

підкреслено необхідність подальшої гармонізації виконавчого провадження із стандартами Ради Європи та практикою ЄСПЛ.

Загалом у статті обґрунтовано, що ефективне забезпечення доступу до правосуддя в Україні можливе лише за умови комплексної реформи цивільного процесу, розвитку альтернативних способів вирішення спорів, посилення ролі адвокатури та підвищення ефективності

виконавчого провадження. Зроблено висновок про необхідність системної імплементації європейських стандартів у національну правову систему як ключового чинника підвищення довіри до судової влади та забезпечення реального верховенства права.

Ключові слова: *цивільний процес, міжнародне право, трудове право, медіація, адвокатура, виконавче провадження, інституції ЄС.*