

## Justice of judicial procedure: conceptual basis and national characteristics

## Justicia: fundamentos conceptuales y características nacionales

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**Revista Brasileira de Direito**, Passo Fundo, vol. 20, n. 1, e4987, January-April, 2024 - ISSN 2238-0604

[Received: April 12, 2024; Accepted: June 11, 2024;

Publicado/Published: June 27, 2024]

DOI: <https://doi.org/10.18256/2238-0604.2024.v20i1.4987>

Como citar este artigo / How to cite item: [clique aqui/click here!](#)

## Abstract

The study is a scientific analysis of the criteria for the effectiveness of justice, the features of the implementation of the constitutional right to a fair trial, the determination of its legal nature and normative consolidation at the international and national levels, the study of the positive experience of applying the precedent practice of the European Court of Human Rights in order to solve the main problems of fair justice in Ukraine . It was emphasized that the process of administering fair justice combines legal and social foundations, and also requires proper economic and organizational technical support. It was concluded that elements of the right to a fair trial, such as territorial jurisdiction of cases, compliance with reasonable investigation deadlines, remote court proceedings in the conditions of martial law introduced in Ukraine, require an immediate and at the same time comprehensive approach in order to create the necessary and at the same time comfortable conditions for the effective resolution of the dispute, ensuring continuous functioning of the judicial system.

**Keywords:** judiciary; right to a fair trial; access to justice; electronic court; European Court of Human Rights.

## Resumo

El estudio es un análisis científico de los criterios para la eficacia de la justicia, las peculiaridades de la aplicación del derecho constitucional a un juicio imparcial, la determinación de su naturaleza jurídica y la consolidación normativa a nivel internacional y nacional, el estudio de la experiencia positiva de la aplicación de la jurisprudencia del Tribunal Europeo de Derechos Humanos para resolver los principales problemas de un juicio justo en Ucrania. Se hace hincapié en que el proceso de justicia justa combina los fundamentos jurídicos y sociales, y también requiere un apoyo técnico económico y organizativo adecuado. Se concluye que los elementos del derecho a un juicio justo, como la jurisdicción territorial de los casos, el respeto de las condiciones razonables de investigación, los procedimientos judiciales a distancia en las condiciones de la ley marcial introducida en Ucrania requieren un enfoque inmediato y al mismo tiempo amplio a fin de crear las condiciones necesarias y al mismo tiempo cómodas para la resolución efectiva de la controversia, garantizar el funcionamiento continuo del sistema judicial.

**Palabras clave:** procedimientos judiciales; derecho a un juicio justo; acceso a la justicia; tribunal electrónico; Tribunal Europeo de Derechos Humanos.

## 1 Introduction

The Constitution of Ukraine defined Ukraine as a sovereign and independent, democratic, social, legal state in which a person, his life and health, honor and dignity, inviolability and security are recognized as the highest social value; human rights and freedoms and their guarantees determine the content and direction of state activity; affirming and ensuring human rights and freedoms is the main duty of the state, which is responsible to people for its activities (Articles 1, 3) (Constitution of Ukraine, 1996).

Regardless of the specifics of this or that national model of the state, it is characterized by common features: the state is a product of the evolution of civil society in the direction of democracy; recognized as a qualitative characteristic of the rule of law; the declaration of a social state is an important constitutional guarantee of ensuring and protecting the rights of citizens; both the purpose of the activity and the policy of the state are determined by legal decisions, its functioning requires developed social legislation; the welfare state serves to ensure civil peace and harmony in society; the establishment of social statehood contributes to the transformation of the market economy into a social market economy (Tsvik *et al.*, 2022).

The development of socio-economic and socio-political relations, scientific thought, law, and state institutions contributed to the development of a stable belief in society that the construction of a democratic and legal state is impossible without ensuring effective mechanisms for the implementation, protection and protection of the rights, freedoms and legitimate interests of physical and legal persons in accordance with the principle of the rule of law. At the same time, understanding the natural nature of rights and freedoms belonging to a person frees him from excessive dependence on the state, allows him to defend his rights against any encroachments.

One of the priority tasks of the rule of law is to ensure the effectiveness of justice, the implementation of which will guarantee the effective protection of the rights and freedoms of a person and a citizen. In modern conditions in Ukraine, the effectiveness of justice, in addition to the peculiarities of martial law, is affected by a number of social factors, in particular, a decrease in the level of public trust in the court, corruption, as well as a number of political, economic and subjective realities.

The judicial power realizes its functions through the administration of justice. The social activity of the court, as a special social institution, primarily consists in its main purpose, namely the protection of the rights and interests of individuals, as well as the legal regulation of social relations through the strict observance of legality. The binding nature of court decisions and compliance with legality are the basic principles that form the institution of justice as an irreplaceable institution.

Since the judicial process is always a social interaction, its effectiveness is largely influenced by social relations. In particular, the provision of high-quality and effective justice is impossible without taking into account social factors, the conditions of

activity of judicial bodies in a specific society, and optimizing the legal support of court activities in accordance with the social realities of a particular state.

The problem of justice, as a basic value, is one of the central ones throughout the history of civilization, constitutional and legal science and practice, and the right to a fair trial is one of the fundamental human rights that the state must protect. The administration of justice itself is one of the necessary procedures, thanks to which the combination of law and justice becomes possible. It is no accident that the term “iustitia” has two meanings at the same time - justice and fairness, and the judicial system of many states is called justice (Bernyukov *et al.*, 2009).

One of the key issues of today’s Ukraine, on the territory of which martial law has been introduced, is whether the modern national judicial system is able to ensure the administration of justice and the right of citizens to a fair trial, which is a fundamental and priority duty of the state, within a reasonable time. Issues of access to justice and public hearings are also important. In the conditions of special legal regimes, these aspects of the right to a fair trial, unfortunately, are not always fully realized, and the state faces a number of problems, the complex solution of which is one of the priority directions of a modern democratic society.

## 2 Methodology of the study

In order to achieve the set goal and fulfill the tasks predetermined by it, the work uses a set of general scientific and special methods of scientific knowledge, the choice of which is due to the features of the object and subject of research. appeal to the dialectical method ensured the deepening of the conceptual apparatus regarding the concept of fair justice. the use of system-structural method made it possible to explore the peculiarities of the right to a fair trial in Ukraine, as well as to establish the relationship between the constituent elements of this right. using the method of system analysis, conflicts in legislation and law enforcement practice were identified, and specific proposals for their elimination were formulated. The statistical method was used in the synthesis of statistical data and materials of practice on the implementation of the studied law. The comparative legal method was used in the process of comparing the norms of international legal acts, the practice of the European Court of Human Rights (hereinafter - ECtHR) and national legislation. In order to obtain reliable and objective results of the study, all methods were used in interconnection and interdependence.

## 3 Analysis of recent research

The principle of justice as a phenomenon and category is the subject of study of various sciences: philosophy, jurisprudence ethics, political science, sociology, cultural

studies and economics. From the doctrinal standpoint of constitutional science, the importance of studying the problems of justice in its relationship with law lies in the fact that it occupies a decisive central place among the values that constitute the ontological basis of law and are derived from such a legal phenomenon as human dignity.

The problem of ensuring the constitutional right to a fair trial is multifaceted, because of which its consideration involves a comprehensive integrated approach, the study of various aspects, and the effective implementation of Article 6 of the Convention for the Protection of Rights and Fundamental Freedoms in Time of War is extremely necessary, since courts are obliged not only to restore the violated right in such conditions (Shelever, 2022), and the state - to ensure the full implementation of justice as the basic legal value of society.

Despite the fact that the quarantine and martial law introduced in Ukraine, although they became an impetus for the digitalization of justice, the introduction of fundamentally new procedures aimed at protecting the rights, freedoms and safety of the participants in the trial (Tatulych, 2022), at the same time, significant restrictions on the rights of citizens and the negative consequences of these phenomena encourage the development of optimal ways to protect them in the field of national justice.

The article is aimed at a scientific analysis of the criteria of efficiency of justice, peculiarities of realization of the constitutional right to a fair trial, determination of its legal nature and normative consolidation at the international and national levels, studying the positive experience of application of the case-law of the European Court of Human Rights in order to solve the main problems of fair trial in Ukraine.

## **4 Results and discussion**

### **4.1 Social interaction as a condition for fair justice**

The relevance of the study of social interaction in the judicial process is related to the processes of building civil society and the rule of law, in which law and law act as the main regulators of social relations, and at the same time must correspond to social realities and the demands of the population (Kolich, 2022).

The essence of social interaction is that only in interaction with others a person can satisfy the vast majority of his needs, interests, values, interaction in itself is also the main life need of a person (Didenko, 2019). Accordingly, the task of the court is to establish the truth and restore justice, and these processes during the administration of justice are also of a social nature, since legal norms do not act by themselves, certain legal procedures are necessary for their implementation, among which the administration of justice occupies one of the prominent places.

The interaction of judicial participants is always social in nature, as it reflects the connections between individuals and their groups. Each of the parties has its own goals

and interests, which oppose each other, and therefore there is a variability of possible court decisions, the main principles of which should be legality, justice and the rule of law.

The social interaction of the participants of the judicial proceedings is characterized by a hierarchy and a rather complex structure, since the motives and goals of the participants, which are based on subjective interests and needs, differ. Social interaction of subjects of legal relations occurs in the process of life, where each participant has his own position, which quite often contradicts the position of other subjects (Kolich, 2022).

The administration of justice is a social interaction of process participants, as well as society and the judicial system, regulated by the norms of law, with compliance with the requirement regarding the absolute priority of human rights. The judicial process, as a social interaction, has a number of specific aspects. First of all, the cause and basis of the legal process is a social conflict, legally formalized. Despite the legal status of the conflict, it does not lose its social characteristics and nature. Therefore, all legal facts considered by the court have a dual nature - as a certain aspect of social conflict and as a phenomenon assessed by law.

Also, subjects of judicial legal relations are characterized by a dual nature, in which social and procedural principles are combined. Procedural characteristics reflect their role in the judicial process, and social characteristics reflect their role in the social system. It is the interaction of social and procedural characteristics that becomes the basis of contradictions, including psychological and status ones. The task of the court is to make a fair decision, based on taking into account the contradictions, and to overcome them. In addition, there is a socio-psychological interaction between the subjects of the legal process. In its pure form, socio-psychological regularities work in the case of a collegial decision, for example, by a jury. In addition, the judge always acts on the basis of his own inner conviction. Social factors inevitably affect both the collegial decision-making and the judge's individual conviction.

So, the process of administration of justice combines two principles: legal and social. The legal nature of justice is that the main goal of this type of government activity is to establish the truth in the case and restore justice, as well as protect the rights and interests of individuals. The social aspect is related to a complex of social factors that affect the judiciary in general. The interaction of the participants in the legal process always has a social character, it is characterized by a hierarchy and a rather complex structure. The administration of justice is a social interaction of process participants, as well as society and the judicial system, regulated by the norms of law, with compliance with the requirement regarding the absolute priority of human rights. The court decision must not only correspond to the letter and spirit of the law, but also be internally perceived by the participants in the process and correspond to social realities.

## 4.2 Doctrinal understanding of the right to a fair trial in Ukraine

Increasing the efficiency of justice is an important direction of the functioning of the judiciary, since only a competent and efficient court can fully ensure the principle of the rule of law, legality, humanity, recognition of the human being as the highest value, etc.

The study of the right to a fair trial is an integral part of the theoretical basis of the constitutional right to judicial protection, to an adversarial trial, to a legal and fair resolution of a legal conflict. The right to a fair trial is a person's right enshrined in Art. 6 of the Conventions on the Protection of Human Rights and Fundamental Freedoms (hereinafter - ECHR), which guarantees the right to a fair and public trial within a reasonable time by an independent and impartial court established by law (the Convention for the Protection of Human Rights and Fundamental Freedoms).

The term "justice" is interpreted not only in its legal sense, but also in its philosophical and aesthetic sense. In particular, according to the etymological origin, "justice" means impartiality of actions, judgments, recognition of someone's rightness, dignity, retribution to everyone on legal and honest grounds and, in general, compliance of human relations and actions with generally recognized moral and legal norms (Seredenko, 2016).

In general, the right to a fair trial is one of the fundamental human rights, because if the legal construction of the specified provision does not apply, then the rest of the human rights remain unprotected, which excludes the guarantee of quality and impartial justice.

In Ukraine, the right to a fair trial is guaranteed, in particular, by the provisions of the Law "On the Judicial System and the Status of Judges", in Art. 2 of which it is indicated that the court, administering justice on the principles of the rule of law, ensures everyone the right to a fair trial and respect for other rights and freedoms guaranteed by the Constitution and laws of Ukraine, as well as international treaties, the binding consent of which was given by the Verkhovna Rada of Ukraine. Also in Art. 7 states that everyone is guaranteed the protection of their rights, freedoms and interests within a reasonable time by an independent, impartial and fair court established by law (On the judiciary and the status of judges. Law of Ukraine, 2016). The functional dependence of the state and its bodies on society, their subordination to society and their orientation to social needs should underlie the effectiveness of mechanisms for implementing the rule of law (Adygezalova *et al.*, 2022).

In our opinion, the provisions of Part 2 of the Law of Ukraine "On the Judiciary and the Status of Judges". testify that in the context of the specified regulatory legal document, the term "fair court" is used both in the context of a requirement for the court as an institution (an independent, impartial, fair court, established by law), and

from the position of a requirement for the procedure for the administration of justice (executing justice on the principles of supremacy rights, ensures everyone the right to a fair trial).

The effectiveness of justice depends on many criteria, in particular, the following are taken as a basis: the accessibility of the court, the provision of the right to legal aid, the clarity of legal norms regarding the judicial procedure, the fairness of the judicial procedure, the promptness of the judicial proceeding, the reasonableness and legality of the judicial decision, etc. The general criteria for evaluating the effectiveness of justice are: the level of preparation of cases for the court hearing (completeness of collected evidence, correct determination of the jurisdiction of the case, verification of cases of unjustified refusal to accept a claim); legality and reasonableness of court decisions (compliance of the decision with substantive and procedural law, basing it on the evidence examined in court, justification of the decision, correctness of interpretation and application of the law); causes of judicial errors (insufficient level of professionalism and competence of the judge, incompleteness of collected evidence, poor quality of the court protocol); observance of the procedural rights of the participants in the court process, the correctness of the reimbursement of court costs; observance of procedural deadlines and the reasons for their violation; the level and timeliness of execution of court decisions (Ivanchenko, 2017).

### **4.3 Implementation of individual provisions of a person's right to a fair trial in Ukraine**

Along with other legal institutions, the judicial branch of government in Ukraine has been affected by the war, which has made adjustments to the process of administration of justice, and the domestic judicial system remains understaffed and morally depressed. The main reason for this state of affairs is, first and foremost, the incompleteness and controversy of the reformation processes in the sphere of administration of justice.

Adequate awareness of the participants in the court process about court decisions, court hearings, and information about cases under consideration by the court is a necessary prerequisite for the realization of the right to access to justice. It is obvious that under the conditions of mass movement of citizens to other places of stay and limited possibilities of the postal operator to deliver correspondence in the conditions of martial law, the administration of justice by the courts in general and the right of access to justice of specific citizens in particular are endangered (Medvedev, 2022).

According to Art. 26 of the Law of Ukraine "On the Legal Regime of Martial Law" shortening or speeding up any forms of judicial proceedings under martial law is prohibited (On the Legal Regime of Martial Law, 2015).



At the level of the Basic Law of Ukraine (Article 124), it is established that justice in Ukraine is administered exclusively by the courts, and the delegation of the functions of the courts, as well as the appropriation of these functions by other bodies or officials, are not allowed (Constitution of Ukraine, 1996). These regulations oblige the courts to work and administer justice even under the conditions of an extraordinary legal regime. At the same time, the new conditions require the state to make decisions aimed at ensuring the proper performance by the courts of the functions assigned to them.

In order to resolve this issue, the Council of Judges of Ukraine adopted a number of important and relevant decisions “Regarding the adoption of urgent measures to ensure the stable functioning of the judiciary in Ukraine in the conditions of termination of the powers of the High Council of Justice and martial law in connection with armed aggression with on the part of the Russian Federation” on February 24, 2022 (Decision of the Council of Judges of Ukraine, 2018). In particular, it published recommendations on the work of courts under martial law, of which the following are the main ones: a) postpone the consideration of the case (except for urgent court proceedings) and remove them from consideration, since a large number of participants in court proceedings are not always able to submit an application for postponement of the consideration cases cannot come to court due to danger to life; b) cases that are not urgent should be considered only with the written consent of all participants in the court proceedings; c) explain to citizens the possibility of postponing the consideration of cases in connection with military operations and the possibility of considering cases by video conference; for this, the participants in the case must declare their participation in the court session via video conference. In case of impossibility to participate in the court session, it is recommended to submit a petition to the court for: 1) postponing the consideration of the case and consideration of the case with the participation of a representative; 2) participation in a court session via video conference (Decision of the Council of Judges of Ukraine, 2018). It is possible to send relevant petitions to the court by mail or through the “Electronic Court” system.

The implementation of the European standards of the right to a fair trial in Ukraine is reduced not only to the law-making activity of the state in the form of its bodies on the adoption of the norms of European law by domestic legislation, but also involves the implementation of a complex of systemic measures of a law enforcement nature, which ensure the actual implementation of the prescriptions of international legal norms. In this sense, when talking about the observance of judicial principles that correspond to the practice of the ECtHR, special attention should be paid to the organizational and technical issues of changing the territorial jurisdiction of cases, observing reasonable investigation deadlines, as well as remote participation in court hearings.

For the normal provision of the right to access to justice as a component of the right to a fair trial, such elements as procedural and physical possibilities of applying to the court are necessary.

The adopted Law of Ukraine “On Amendments to the Law of Ukraine “On the Judiciary and the Status of Judges” stipulates that in connection with a natural disaster, military operations, measures to combat terrorism or other extraordinary circumstances, the work of the court may be suspended with the simultaneous determination of another the court that will administer justice on the territory of the court that has ceased operations and that is territorially closest to the court whose work has been terminated (On Amendments to the Law of Ukraine “On the Judiciary and the Status of Judges”, 2016).

The resumption of work in some courts, in particular in the de-occupied territories of Ukraine, is accompanied by a large number of organizational and technical problems, because a significant number of court premises were damaged or completely destroyed, and computer equipment and other material assets were stolen. Therefore, regardless of the fact that the court that was supposed to consider the case has ceased its activity, the consideration of the case should be carried out by another court that is territorially closest. Information on the change of territorial jurisdiction of court cases can be found directly on the website of a particular court.

One of the elements of the requirements of Art. 6 of the ECHR there is a requirement that the case must be considered within a reasonable time. Also, the analysis of the practice of the ECtHR proves that when determining the reasonableness of the trial period, not only such criteria as the importance of the case for the applicant, the complexity of the case, the behavior of the parties, the number of stages of the proceedings, but also the peculiarities of the political or social situation in the state, etc. are taken into account” (Tregubov, 2010). The criteria for a reasonable period of time in the implementation of legal proceedings are: legal and factual complexity of the case; the behavior of the applicant, as well as other persons involved in the case, other participants in the process; the behavior of state authorities (primarily courts); the nature of the process and its significance for the applicant.

Martial law does not affect the course of procedural terms, but may be a valid reason for renewing or extending the procedural term; the procedural term established by the court is not subject to renewal, but can only be extended at the request of the party to the dispute; during the period of martial law, the general and special statute of limitations provided for by the norms of civil and economic legislation are extended.

Of course, the format of the activity of courts and judges has undergone changes, adapted to the peculiarities of the legal regime caused by the martial law, but under such, even temporary conditions, judicial proceedings must be carried out in all cases and cannot be suspended in order to prevent the limitation of a person’s constitutional right to judicial protection.

The digital age gives rise to the increasing penetration of electronic technologies into social relations, ensuring the emergence of new electronic resources, including such as digital platforms, chatbots, self-learning programs of artificial intelligence, Internet of Things technologies and many others; and by creating new types of services, in particular electronic justice services (Shcherbak and Kozhevnikova, 2023).

The functioning of the electronic judicial system plays a key role in the “combination of process and technology” in a symbiosis where, on the one hand, technology can significantly improve the administration of justice, and justice, on the other hand, is a kind of platform for high-tech achievements for the purpose of their practical application. At the same time, electronic technologies should be used in justice as a tool for performing procedural actions.

Provisions regarding the administration of justice in a specially equipped room - a courtroom are contained in every procedural law. This places an obligation on judges and court staff who, being faithful to their oath and acting in accordance with the Constitution, are physically present at their workplaces so that justice continues to be administered.

The issue of providing the possibility of remote justice gained wide popularity in 2022 due to the spread of the coronavirus pandemic. In 2020, the Verkhovna Rada of Ukraine adopted laws that made it possible for litigants to exercise their right to participate in court hearings remotely, thus exercising their right to a fair trial. Instead, the State Judicial Administration of Ukraine has developed a procedure for video conferencing during the court session with the participation of the parties outside the court premises. This format of holding court hearings helped to normalize the administration of justice in quarantine conditions. However, practice confirms that martial law conditions prevent individuals from exercising their rights to have their case heard by a court even in this way due to the risk of becoming a target of chaotic shelling and bombing. We believe that further steps to expand the possibilities of remote judicial proceedings require a technical and regulatory basis in order to ensure the possibility for participants in proceedings and judges to participate in court sessions remotely.

While the expansion of the use of online court proceedings is in the waiting stage, it is worth actively using the resources of the “Electronic Court” subsystem, which, after registering in their own electronic account, allows the participants in the case and their representatives to submit documents to the court, receive documents, get acquainted with case materials, etc. In addition, the “Electronic court” subsystem provides the opportunity for participants in the court process to pay the court fee and other payments online, create and provide an electronic power of attorney to another person, and additionally receive: web links to the texts of all procedural documents created by the court in the case in which participates in: court decisions, subpoenas,

subpoenas, etc.; information about received and registered incoming documents for the case together with documents in electronic format; information about received documents on the case from other participants together with documents in electronic format; electronic documents that caused a change in the status of the case, automated distribution protocols, etc.

The full recording of the court session is carried out in the video conferencing subsystem, where the secretary of the court session conducts both the recording of court sessions that are held both in the video conference mode and those court sessions that are held without the use of the video conference mode. At the same time, the technical record of the court session is automatically stored in a centralized file storage. Storing data in a centralized file repository has advantages over storing data in a centralized file repository of a particular court.

However, as noted by S. Shcherbak and A. Kozhevnikova, this technology is not perfect, as it also contains risks of cyber attacks and unauthorized influence. We consider it expedient to offer the use of reliable and modern, stable and secure cloud technology for data storage. Saving the data of individual subsystems of the Unified Judicial Information and Telecommunication System in the judicial file storage using cloud technologies will ensure information security and protection against interference and unauthorized access and provide prospects for further investigations in this direction (Shcherbak and Kozhevnikova, 2023).

The general content of the court's remarks is reduced, in particular, to the fact that the courts lack sufficient methodical, material, technical and personnel support for the performance of the assigned tasks. The question of the real need for attracting additional human resources and material resources for the proper organization of court work in new conditions has not been clarified, training of court staff and judges on work in the "Electronic Court" subsystem has not been carried out, and the scanning base is unjustified broad and does not meet the requirements of the procedural legislation, which will enter into force simultaneously with the start of the work of the Unified Judicial Information and Telecommunication System (Decision of the Council of Judges of Ukraine, 2018).

Thus, the electronic court is an innovation, the results of which can really prove and contribute to its legislative regulation, in order to avoid unnecessary expenditure of time and money during the consideration and resolution of cases in court. Developing a culture of e-justice and making it a part of professional activity is important for lawyers, or to use it as a real tool, in particular, for active and responsible citizens. Necessary and at the same time comfortable conditions for high-quality and effective resolution of the dispute must be created for the participants in the legal process. For this purpose, it is necessary to ensure the successful and balanced application of the legislation, which, of course, will require the appropriate technical support of the courts.

The elements considered in the specified part of the article (territorial jurisdiction of cases, compliance with reasonable investigation deadlines, remote court proceedings) are integral components of the right to a fair trial within the meaning of Part 1 of Article 6 Conventions and serve as guarantees established by the ECHR and the practice of the ECtHR as the most effective regional international human rights protection system at the moment (Lemak, 2014). At the same time, analyzing the current state of the practice of national implementation of the ECHR, as well as the precedent practice of the ECtHR in modern conditions, we can characterize the latter as not yet systematic, and the mechanism of appeal to the precedent practice of the ECtHR is still undeveloped. In this context, as well as taking into account the legislative, organizational and economic difficulties caused by the state of war on the territory of Ukraine, we consider it appropriate to provide advisory clarifications of higher judicial institutions on the issues of forming approaches to the application of the practice of the ECtHR in conditions of emergency legal regimes.

## 5 Conclusions

Ensuring the effectiveness of justice and the completeness of its social orientation is one of the key tasks of the rule of law, on the implementation of which the level of protection of human and citizen rights and freedoms directly depends. The process of administration of justice combines two principles: legal - establishing the truth in the case and restoring justice, as well as protecting the rights and interests of individuals, and social - taking into account the interests of the individual, carrying out judicial proceedings under the conditions of a special legal regime, etc.

Justice is one of the fundamental values, which is filled with content in law, determines its essence and is of essential importance for the idea of ensuring legal foundations in a court decision. The right to a fair trial is one of the elements of the rule of law and a fundamental right of every person, enshrined at the international and national level. Guided by the provisions of Art. 6 of the European Convention on Human Rights and the practice of the European Court of Human Rights, the state must provide guarantees for every person regarding access to legal, independent and objective justice.

Such elements of the right to a fair trial as territorial jurisdiction of cases, compliance with reasonable investigation deadlines, remote court proceedings in the conditions of martial law introduced in Ukraine require an immediate and at the same time comprehensive approach in order to create the necessary and at the same time comfortable conditions for the effective resolution of the dispute, ensuring uninterrupted functioning judicial system. When reforming the judicial system, it is necessary to take into account international standards of justice, the demands of

society, as well as the best global models of justice. The following should be identified as priorities: further improvement of legal support for court activities; provision of advisory clarifications of higher judicial institutions on issues of forming approaches to the application of the practice of the European Court of Human Rights in conditions of emergency legal regimes; application of the electronic justice system; introducing systematic training of judges and increasing their level of responsibility; proper organizational and technical support of courts.

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