European Journal of Sustainable Development (2025), **14**, 4, 761-775 ISSN: 2239-5938
Doi: 10.14207/ejsd.2025.v14n4p761

Application of Article 6(1) of the ECHR in Civil Proceedings: The Effect of European Integration Processes on Ukrainian Legislation

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ABSTRACT:
The aim of the research is to consider the specifics of application of Article 6(1) of the ECHR, as well as to examine the way national courts use it when administrating justice in civil proceedings as part of euro-integration obligations by our State. Methodology. The methods applied in the article are: historical; hermeneutic; structural and functional; system and structural; formal and logical; case study method. Findings. The development of the institution of judicial protection of person's rights in Ukrainian legislation, its system, as well as the institutionalization of international guarantees for human rights and freedoms are traced. The key principles of Article 6 of the Convention, which are also fundamental elements of the right to a fair trial are studied in detail. The relevant ECHR practice, as well as the decisions by the Supreme Court of Ukraine that are grounded on applying this rule of the Convention, are examined. Practical implications. It is summarized that national courts need to meticulously and comprehensively establish and investigate all the facts of each dispute and objectively assess the conformity of the application of legal rules. It is also advisably to carefully study the current ECHR case-law, as it is dynamically developing and may differ from previous positions.

Keywords: European Convention on Human Rights (ECHR; Convention), European Court on Human Rights (ECtHR; the Court), Supreme Court of Ukraine (SCU), ECtHR case-law, protecting individual's rights and freedoms, Article 6(1).

1. Introduction

European choice of our country is historically determined and consistent with our traditions and cultural heritage. Ukrainians aspire to become part of the European community, to share its values, and to build their state on the principles of democracy, social justice, and unconditional peace and security. Therefore, it is quite natural that in

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2019, the irreversibility of Ukraine's European and Euro-Atlantic course was enshrined at the constitutional level.

In 2022, when Ukraine filed for membership in the EU, a new stage of transformation began in our society. Joining this organization requires reforming all spheres of our lives, from reforming of the Constitutional Court to amending the approach to the status of national minorities. Of the seven requirements put forward by the European Commission to Ukraine, two directly concern the judicial system: adopting and implementing legislation on the selection process for judges of the Constitutional Court of Ukraine (CCU), including selecting based on evaluating of their independence and professionalism, according to the remarks of the Venice Commission. The second one deals with the completion by the Ethics Council of the decency check of applicants for the High Council of Justice, as well as the selecting nominees for the formation of the High Qualification Commission of Judges of Ukraine. Harmonizing our legislation with that of the EU is also one of the requirements for accession to the Union.

The Convention is one of the key documents of the European community, as its adoption in 1950 effectively marked the beginning of the establishment and development of standards of individual's rights. In addition to defining the content and scope of human rights, the Convention provides a concrete mechanism for their implementation and protection, including identifying the subjects entitled to file an application to the ECtHR. Thus, these standards become practical rather than declarative, serving as an instrument to ensure state accountability for their violation. The ECHR is an interstate treaty under which most European countries have committed to upholding human rights and freedoms. These rights are ensured both by the provisions of the document itself and by the protocols thereto (Panchenko, 2022, p. 49).

This document entered into legal force in 1997 for our State and, according to the provisions of the Ukrainian Constitution, is part of the State's legislation. Adherence to the Convention's requirements during the administration of justice is one of the guarantees for ensuring human rights in judicial proceedings, which guarantees the right to a hearing by an independent and impartial tribunal within a reasonable term on the basis of justice and publicity. According to the Venice Commission, the right to a fair trial is an essential component of the rule of law.

2. Literature Review

International law relies heavily on the state mechanism to implement its policy goals and values at the domestic level. Consequently, state bodies play a role in the process of realizing international law. The significance of the state is specified by the fact that it is the only entity that can genuinely influence the implementation of international law norms on its territory. Any system of legal norms, no matter how brilliantly designed, has no right to exist unless it has a real impact on life. By themselves, legal norms are merely expressions of abstract authority and the obligation of desired behavior by actors; therefore, the real content of their regulatory qualities can be revealed only in the process of implementation (Shumilo, 2018).

The existence of every state's obligation to implement international law is determined by the principle of *pacta sunt servanda*, enshrined in Article 26 of the Vienna Convention on

the Law of Treaties. As Zadorozhna (2017) correctly points out, the principle of good faith performance of international obligations gives rise to the duty of states to take all necessary measures to apply the norms of an international treaty, which is achieved by establishing appropriate mechanisms for the implementation of its provisions and proper mechanisms for their realization.

Gulyam (2023) notes that globalization has blurred the traditional boundaries of State sovereignty, contributing to growing interdependence among countries. As a result, the scope of international law has expanded and now regulates issues that were previously considered an internal matter of states (for example, health care, economy, ecology). Moreover, thanks to this development, natural persons are now also recognized as subjects of international law, which is especially noticeable in the field of human rights

In this regard, O. M. Shpakovych (2011) stresses that "nowadays, international organizations not only facilitate tighter cooperation among States, but also settle disputes between them. A fresh tendency is that legal acts adopted by the organs of an international organization are obliging not only on Member States and their organs, but also on natural and legal persons. The rights of the latter to apply to the judicial bodies of international organizations have also been expanded. Provision is made for strengthening the monitoring of compliance by all entities with the obligations arising from the legal acts. Besides, the judiciary not only ensures the fulfillment and enforcement of international organizations' legal acts, but also promote further progress of international and European law.".

The post-1945 era has witnessed the emergence of various human rights agreements that proceed from the premise that human beings, as human beings, inherently possess certain fundamental rights that should not be violated by others, especially by state authorities. One such agreement is the ECHR, adopted on the basis of the Universal Declaration of Human Rights with the aim of ensuring that signatory countries (Council of Europe Members) respect and secure on their territory the rights and fundamental freedoms of an individual (Badyda & Lemak, 2017).

Given that states have undertaken to secure the rights enshrined by the ECHR to everyone within their jurisdiction, and that interpreting the rules of this document ultimately belongs to the Court, the interpretations given by the Court in its judgments are an essential part of the relevant Convention's rules and, therefore, have the legal force of the Convention *erga omnes*. The ECtHR's judgments thus have, according to the well-known French formula, «*autorité de la chose interprétée*» (Deccaux, 2011), that is, the authority of the thing interpreted. Indeed, it goes without saying that the Court's judgments will have consequences that extend beyond the specific case.

The ECtHR decisions, in essence, serve not only to resolve the case, but also to clarify and develop the Convention norms as a whole, thereby contributing to the States' compliance with the obligations they have undertaken as Contracting Parties (Francioni, 2007). This means that

Member States, in addition to executing the Court's decisions, must also consider the possible consequences that judgments rendered in other cases may have for their legal system.

Consequently, the purpose of this Article is to examine the features of applying Art. 6(1) of the ECHR, as well as to investigate the way national courts use it when administrating justice in civil proceedings as part of euro-integration obligations by our State.

3. Methodology

The research methodology was chosen in accordance with its aim, objectives, and subject matter of the study. The article's methodology is based on a system of common and specific approaches and methods for the cognition of legal phenomena. The research is based on the following methodological approaches:

The historical method was employed to trace the evolution of judicial protection of person's rights in Ukrainian legislation, its system, as well as the institutionalization of global guarantees for individual's rights and freedoms.

Hermeneutic methods were applied during the analysis of the rules of the ECHR, in particular, Art. 6 of the Convention; national legislation aimed at its implementation and judicial protection of an individual's rights; the relevant ECtHR practice and the judgments by the Supreme Court of Ukraine.

The structural and functional method facilitated the development of the study's conceptual apparatus, namely, formulating ideas about the basic concepts of the research and their interrelation, as well as about the implementation of judicial decisions as an integral element of the implementation of international law.

System and structural method helped to highlight the elements of judicial protection of individual's rights, provided for in Art. 6(1) of the Convention, and to allocate general request of a «fair» trial provided for in it.

Formal and logical research methods allowed to establish the structure of international legal obligations and the provisions of national legislation regarding the implementation of the ECtHR's practice.

The case study method was employed to conduct research on specific manifestations of implementing of international judgments domestically.

4. Results and Discussion

A cornerstone of constitutional protection for individual rights and freedoms is the right to judicial safeguarding. As outlined in Article 55 of the Main Law of Ukraine, courts are mandated to protect the rights and freedoms of all individuals and citizens. This constitutional guarantee ensures that everyone has the right to challenge in court any decisions, actions, or inactions by state authorities, local self-government bodies, officials, and civil servants (Law No. 254k/96-VR, 1996). The essence of this right is that everyone – a citizen of Ukraine, a foreigner, or a stateless person – has a state-guaranteed right to appeal to a court of general jurisdiction against any decision, act, or omission of any state authority, local self-government body, or official if they believe that such decisions, acts, or omission violate or infringe upon their rights or hinder their exercise, thereby requiring legal protection in court. Such claims are to be directly considered by courts, regardless of whether a previously adopted law might have established a different procedure for their review (e.g., appealing to a higher-level authority). Filing a complaint with a higher-level

body or official does not preclude challenging these decisions, acts, or omission in court (Constitutional Court of Ukraine, 1997).

The efficiency of individual's rights judicial protection is up to the compliance with a number of imperative requirements transforming it from a declarative norm into a functional mechanism. This involves ensuring effective access to justice, which includes: unhindered access to court and a prohibition on the denial of justice; protection of substantive, not formal, rights; clear and understandable procedures; the duty by the state to provide the effectiveness of this right, particularly through a system of legal aid and simplified procedures.

The system for protecting human rights and freedoms in Ukraine, as provided for in Art. 55(4) of the Constitution, defines two levels of such protection: national and international ones. The first level entails a lawful, objective, comprehensive, impartial and open hearing of a dispute within a prudent term in a court of first instance. In addition, the right to appeal a court decision in the appellate court and, if there are legal grounds, - in the cassation procedure, is guaranteed. An individual may resort to the second level after having exhausted all domestic remedies – by application to the respective global judicial bodied or agencies of international organizations, in which our country participates for the protection of their rights and freedoms.

The rule of exhaustion of all domestic remedies defines: the framework within which a state has agreed to be held accountable before the international body or institution; the point, at which the responsibility of the State to such bodies and institutions may arise; exhaustion of only effective remedies that can provide adequate redress, correct the situation, and prevent and remedy rights violations; the use of only those remedies available to an individual; the need to apply to the relevant national court in accordance with the enshrined formal requirements and deadlines; the purpose of exhaustion – to give the state an opportunity to prevent and resolve the alleged violation before the case is referred to an international body or institution; application of only those remedies that are relevant to the violation that is the subject of the complaint, etc. Furthermore, it should be borne in mind that the right to exhaust all remedies is not ultimate and is not applied automatically; the specific aspects of the case must be considered. The rule requires a flexible, non-formalistic approach: not only formal legal remedies but also the circumstances in which they operate, law and political setting in which they are applied, and individual circumstances of the applicant must be considered – whether he/she did everything that could reasonably be expected of him/her to exhaust such remedies; are there specific conditions that exempt or have exempted the applicant from the duty of exhaustion, such as an administrative practice that has rendered the use of legal remedies futile; remedies that are incapable of resolving a case in a timely manner or are not effective; the remedies are theoretically sound but practically insufficient, etc. (Tatsii, Petryshyn & Barabash, 2011, p. 209).

The institutionalization of international guarantees for human rights and freedoms is a landmark achievement of the 20th-century global community. This process materialized by adopting global human rights treaties and establishing supranational supervisory bodies. Within this system, the ECtHC plays a leading role as one of the most effective mechanisms. The legal basis for the ECtHR functioning and activities is the Convention, which was ratified in our country by the Law of Ukraine No. 475/97-VR (1997).

The ECtHR establishes a special mechanism for protecting the rights it guarantees (so-called «convention mechanism»). Thus, Article 1 of the Convention enshrines that the signatory states guarantee to everyone laws and liberties defined in the Convention within their jurisdiction. Article 6 provides for the the right to a fair and public trial. This hearing must occur within prudent timeframes and be conducted by a lawfully established, independent, and impartial tribunal. The purpose of such a hearing is to determine an individual's civil rights and obligations or to rule on any criminal charges levied against them. While judgments must be pronounced publicly, there are exceptions where the press and general public may be excluded from all or part of the proceedings. These exclusions are permissible in a democratic society when necessary for reasons of morals, public order, or national security. They may also apply when protecting the interests of minors, safeguarding the private life of the parties involved, or when, in the court's strict opinion, publicity would undermine the interests of justice under special circumstances. Paragraph 1 of Article 6 applies to all types of proceedings, whereas paragraphs 2 and 3 apply exclusively to criminal proceedings (Council of Europe, 1950).

The main principles laid down in Article 6 of the Convention are the rule of law and the proper administration of justice, which are fundamental to the right to a fair trial. It follows from the structure of Article 6(1) that this right consists of the following elements: 1) the right to be heard in court; 2) justice of the hearing; 3) openness of the hearing and announcing the decision; 4) consideration of the case within a prudent period; 5) consideration by the lawful tribunal; 6) independence and impartiality of the court.

The right to a hearing encompasses two key aspects: firstly, the ability to initiate proceedings, and secondly, the right to review the merits of each case and to obtain a final decision. The right of access to court is a core component of the rule of law. This fundamental connection was first established by the ECHR in the case of Golder v.UK. The Court stressed that the rule of law would be illusory without a real possibility of applying to the courts. It emphasized that the right to a judicial identifying civil disputes, as well as the prohibition on the denial of justice, are universal legal principles. Consequently, the warranties of Art. 6(1) must be interpreted through this lens (Golder v. United Kingdom, 21 February 1975).

In Bellet v. France, the European Court of Human Rights clarified entitlement to fair trial under Art.6(1). The Court emphasized that this article guarantees access to a court, and national legislation must provide a sufficient level of access to uphold an individual's right to judicial review. For this access to be truly effective, people must have actual and pragmatic possibility to contest any action that violates their rights (Bellet v. France, 04 December 1995).

The right of access to trial must be pragmatic and efficient, not speculative one. This means that an individual should be able to exercise this right without excessive obstacles, regardless of their procedural or substantive nature. Thus, in the case of Stankov v. Bulgaria, the claimant had factual access to the court, and his case was heard with a judgment rendered. However, the judge ordered the applicant to pay disproportionately high court fees that practically nullified the right of access to trial. The ECtHR unanimously held that «practical difficulties of assessing the likely award under the law, coupled with the relatively high fixed rate of the duty, were a disproportionate limitation of the right of access to trial» (Stankov v. Bulgaria, 12 July 2007).

According to the ECtHR's view, any barrier restricting access to justice may be deemed a Convention's breach. For instance, the Court considers it inadmissible to require an individual to undergo mandatory pre-trial settlement procedures or internal appeals before he can apply to a court. Such preconditions are viewed as a breach of the right to judicial protection. Furthermore, the ECtHR draws a clear difference between accessing lower court and superior judiciary. The Court's general principle is that the Convention does not demand States to establish higher courts. But, if a State has implemented such an appeal system, it must ensure that access to it complies with the guarantees of Art. 6.

Accessibility to trial also includes the right to decide on the case. For instance, in Hornsby v. Greece, the ECtHR expanded this concept by including the mandatory execution of judicial decisions in it. The Court reasoned that the right of access to trial would be rendered meaningless if the State allows for final court decisions to remain unimplemented to the neglect of another party. Thus, the execution of a judgment is not seen as a separate process but as an essential part of the judicial proceedings, enshrined by Art. 6 of the ECHR (Hornsby v. Greece, 19 Mach 1997).

The right to a hearing also implies the binding and final nature of a judicial decision. The ECtHR's judgments have precedential value and are binding not only on the parties to the case but also the Convention signatory countries. This approach is based on the fundamental principle that the Convention guarantees not theorized or illusive rights, but pragmatic and efficient ones. This requirement is particularly important for the right to a defense that is a core aspect of the right to a just trial – the cornerstone of a democratic society (Artico v. Italy, 13 May 1980).

Common requirements of a «fair» trial include:

a) hearing by a trial established by law. This includes the judge having the necessary authority; having sufficient powers to hear a particular category of cases and render appropriate decisions; a properly constituted and authorized court panel (including adherence to the rules of automated case distribution); compliance with all rules of jurisdiction;

b) hearing by an independent and impartial court. Independence involves a transparent process for the appointment and dismissal of court members, the term of office for judges, and the existence of guarantees against external pressure. Impartiality encompasses both subjective aspects (the personal convictions and behavior of an individual judge) and objective factors (lack of any doubt as to the his/her integrity);

c) equality of arms in the proceedings. This means that neither party should have more favorable conditions for presenting evidence and their case; it also involves the concept of a "just balancing" between them;

d) access to trial. This involves the ability to file an application with the court; the court's obligation to hear the case on its merits and render a final judgment; mandatory execution of the judgment within a reasonable time;

e) hearing within a reasonable term. The purpose of establishing a reasonable term is to ensure timely judicial protection. Such a period is considered to be the objectively necessary amount of time sufficient to carry out all procedural actions, make decisions, and finally resolve the case without undue delay. The criteria for a reasonable time include: the complexness of the matter; the claimant's conduct; the conduct of the government agencies, primarily the court; the importance of the dispute to the claimant. In assessing

the efficiency of various domestic means of legal protection in connection with undue length of proceedings, the ECtHR has developed several criteria and principles, formulated in its judgments. Thus, a key factor in evaluating the impact of a remedy for claims concerning the duration of legal proceedings is whether the individual can access domestic courts to obtain specific and direct relief. In essence, an effective remedy must offer a prompt and direct solution to the delay itself, rather than merely providing indirect protection of the rights provided for by Art. 6. The ECtHR has also determined that a remedy is "efficient" if it can either expedite the judgment of the ongoing case or provide the applicant with suitable compensation for any past postponements and delays. (Merit v. Ukraine, 30 March 2004);

f) reasoned judicial decision. Art. 6 obliges national judges to provide reasons for their judgments, but this cannot be interpreted as a demand for providing a comprehensive response to each point put forward by a party to the proceedings. The ECtHR has noted that the level of the national court's duty to specify explanations may differ based on the judgment's character. Furthermore, in the Court's view, it is crucial to take into account that the party in the trial himself/herself chooses the evidence and arguments that he/she brings before the court. Consideration should also be given to the differences in the provisions of the legislation, ordinary law, legal views on this matter, and the procedures for adopting and drafting judicial decisions existing in the Convention's Member States (Fulei & Startsev, 2017);

g) publicity of the proceedings and the pronouncement of the judgment. Art. 6 enshrines every person's right to public hearing of his/her case. This principle serves two key functions: protective one (publicity protects the parties to the proceedings from secret justice that is not subject to public scrutiny) and preventive one (it is an important tool for strengthening trust in the judicial system as a whole). It is crucial that the requirement of publicity extends to the entire process – from hearing of the case to pronouncement of the final judicial decision. The ECHR emphasized that holding of public hearings is a key foundation provided for by the Convention (Riepan v. Austria, 14 November 2000).

Ukrainian judges also apply the rules of the Convention, particularly Article 6, to strengthen their legal positions when resolving disputes. However, for its application in a case, the following criteria must be met: 1) the dispute must be authentic and substantial; 2) the judgment must be deciding for the contested right; 3) the law in dispute should have a legal framework in national law guaranteed by the State so that in the case of a conflict, it can be defended by trial; 4) the right must be of a «civil» character (which depends on its substantive content, not its classification in national law) (Supreme Court of Ukraine, 2021(c)).

While the first three points are generally straightforward, the concept of the «civil character of a right» requires clarification. Art. 6 guarantees the right to a fair trial in cases concerning «civil rights and obligations»; however, despite the reference to a «civil» character, its applying is not restricted to cases heard under the rules of civil procedure or in civil courts. According to ECtHR, official classification of a right in the national legislation of a Member State, or hearing a dispute in a court of another jurisdiction (e.g., administrative or commercial), is not an obstacle to declaring an application admissible under Article 6.

The key in this context is the «autonomous» interpretation of the concept of «civil rights and obligations» by the ECtHR itself. The Court has repeatedly affirmed that such an

interpretation is necessary because a different approach could lead to results incompatible with the object and purpose of the Convention. This means that the content of this concept is determined by the Court itself, not by national law. Accordingly, for applying Art. 6 in its «civil» part, it is necessary that there be a dispute related to "right" acknowledged in national law and that it considerably concerns civil law.

Since the Convention is a «vibrant instrument» that is construed under current circumstances, and societal relations have evolved significantly, the ECtHR has extended the scope of Article 6 to many categories of disputes between citizens and public authorities, even if they are heard in other jurisdictions.

Disputes falling under this category include:

⇨ the right to property (expropriation, revocation of building permits);

⇨licensing and permits for business or professional activities;

⇨ deductions in the social security system;

⇨labor relations between the State and public officials (Fulei & Startsev, 2017, pp. 111 – 112).

For example, regarding the latter, the Court previously determined that, owing to the distinctions in legal frameworks across numerous Council of Europe Member States concerning civil servants versus private sector employees, disputes related to the hiring, career progression, and dismissal of public officials is typically excluded from the purview of Art. 6(1) (Massa v. Italy, 24 April 1993). However, later there have been several judgments, in which the ECtHR has departed from the practice of not applying Article 6 of the Convention to public servants. Wishing to put to an end the uncertainty surrounding the application of the guarantees provided by this Article regarding to disputes between states and their employees, the ECtHR now states that only disputes involving public servants whose roles encompass specialized public service activities, particularly those acting as custodians of state authority responsible for safeguarding general state and public interests, are expelled from Art. 6(1). Prime examples of such activities include the armed forces and police. Practically, the ECtHR will assess each matter individually to determine whether a claimant's position, based on the nature of their duties and responsibilities, is directly or indirectly connected to the exercise of public law powers and duties aimed at protecting the broader concerns of the State or other public entities. To facilitate this assessment, the Court refers to categories of activities and positions identified by the European Commission in its 18 March 1988 information note and by the Court of Justice of the European Communities (Pellegrin v. France, 08 December 1999).

Accordingly, when interpreting civil rights and obligations, the ECtHR goes beyond civil law and may extend the application of Art. 6(1) to various matters based on a sectoral-legal criterion, with the aim of protecting human rights, freedoms, and interests. Concurrently, the ***disputes lacking "civil character of a right"*** are:

⇨disputes between civil servants concerning the exercise of public powers;

⇨tax disputes;

⇨customs cases;

⇨cases related to granting of refugee status;

⇨migration issues;

⇨cases involving claims by state-owned enterprises;

⇨political rights; and electoral cases (The Supreme Court of Ukraine, 2022).

Concurrently, inapplicability of Art. 6 of the Convention (assuming that an application to the ECHR would be declared inadmissible) is not of fundamental importance for judges at the national level, especially since other articles of this international document may be applied (e.g. Art. 13). The inapplicability of Art. 6 does not indicate that national courts should not use it and to deny the person a fair trial, as this is a matter of minimum judicial protection under the Convention. Domestic legislation provides for the principle of fair judicial protection in all cases.

The ECtHR emphasizes that for the «civil» aspect of Art. 6(1) was enforceable, it should be a dispute concerning a «right» that could unreasonably be referred to as recognized national law, whether or not it is defended by the Convention. The argument must be authentic and substantial; it can concern not just the mere presence of a right but also its extent and the way it is exercised. Crucially, the result of the proceedings must have a definitive influence on the considered right; tenuous links or distant consequences are insufficient for Article 6(1) to apply. In this context, the nature of the legislation governing the determination of the matter (e.g., civil, commercial, or administrative law) and the type of authority competent to hear the case are also considered (a court of general jurisdiction, an administrative body, etc.) are not of decisive importance (Bochan v. Ukraine (№ 2), 05 February 2015).

In Ukraine, national courts are required to apply the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms, along with its protocols, and the case-law of the ECtHR as sources of law. This obligation is stipulated Ukrainian legislation and is consistent with the SCU practice. The Verkhovna Rada of Ukraine has consented to the binding nature of these protocols (Supreme Court of Ukraine, 2020(a)). This is also emphasized in Article 10 of the Civil Procedure Code of Ukraine (Law No. 1618-IV, 2004). National courts are obliged to ensure the right to a fair trial in all cases, regardless of whether a potential complaint to the ECtHR might be deemed inadmissible under Article 6 of the Convention. This potential inadmissibility at the international level is not decisive for a national court, as other provisions of the Convention may apply (for example, Article 13 «The right to an effective remedy»). Moreover, the guarantees of a fair trial are a minimum standard of justice, provided for by the said international instrument and enshrined in domestic legislation as a universal principle. Thus, a refusal to provide a fair hearing at the national level is inadmissible, even if the case does not fall under the jurisdiction of the ECtHR under Article 6.

It has to be stressed that Ukrainian judges actively apply the norms of this international document to substantiate their decisions. For example, in case No. 753/18694/18, the cassation court emphasized that ensuring the right to appeal a judgment is one of the key rules of justice. According to Art. 6, this constitutional right must be secured by judicial procedures that are fair. An individual cannot be unreasonably denied the right to appeal, as this would be a breach of the right to a fair trial provided for the Convention (Supreme Court of Ukraine, 2021(b)).

An equivalent rationale is found in the ruling of the SCU in case No. 521/12911/19. In this case, the Malynovskyi District Court of Odesa opened proceedings in a debt recovery

case. The defendant filed an appeal against this ruling, challenging it on the grounds of a breach of the jurisdiction's rules. The Odesa Court of Appeal left the appeal without action due to the missed deadline for filing an appeal.

The Supreme Court, in turn, stated that ensuring constitutional right to appeal must be secured by just procedures, and therefore, an individual cannot be unduly denied the right to appeal, as this would violate the right ensured by Art. 6. The realization of an individual's right to judicial protection is carried out, in particular, through the appeal of judicial decisions in appellate courts, as the review of such decisions guarantees the recovery of the person's infringed rights and legally protected interests. Thus, the SCU concluded that the ruling of the appellate court did not comply with the demands of the civil procedural legislation and was issued in violating its norms, what is a ground for its annulment and the conveying of the matter for consideration to the appellate court (Supreme Court of Ukraine, 2020(b)).

Interesting in the context of this study is the case No. 757/9851/21-ts, where the key issue was the following: is the appellate court's refusal to open appeal proceedings due to a missed deadline for appeal compatible with the right of access to a court? (Supreme Court of Ukraine, 2024)

On this matter, the SCU noted that, according to the ECtHR, when an appeal mechanism exists within a national legal system, the state has an obligation to ensure that individuals benefit from the basic warranties outlined in Article 6 of the Convention throughout their case's consideration in appellate courts and within those courts' jurisdiction. This must be done while acknowledging the unique characteristics of appellate proceedings. Furthermore, the procedural interconnectedness of the judicial process within the national judicial order and the specific function of the higher court within that system must also be taken into account (Case of Volovik v. Ukraine). At the same time, the "right to court" which includes the right of access to justice, is not ultimate one. It can be subject to implied limitations, particularly regarding the conditions under which an appeal can be admitted. (Case of Brualla Gómez de la Torre v. Spain).

In many cases, the ECtHR has consistently maintained that national authorities, particularly courts, bear the primary responsibility for interpreting domestic legislation, including procedural rules like deadlines for submitting documents or lodging appeals. The ECtHR's stance is that procedural restrictions will only be considered consistent with Article 6(1) if they follow a legal objective and if there is a prudent and proportionate connection between the methods used and the desired outcome. Generally, procedural rules should not limit or diminish an individual's access to justice to such an extent that the fundamental essence of the right is undermined. A key component of the right to a fair trial is the right to be properly informed of judicial decisions, particularly when there is a specific timeframe for filing an appeal. However, Article 6 of the Convention does not dictate a particular method for serving legal documents. Furthermore, the ECtHR has repeatedly noted that an interested party is obliged to show particular diligence in protecting their interests and to take necessary steps to acquaint themselves with the progress of the proceedings (Case of Karakutsya v. Ukraine).

Analyzing the indicated ECtHR cases and the norms of Art. 6 of the Convention, the Supreme Court of Ukraine established that there were no grounds to annul the contested judicial decision, as the case materials did not indicate that the plaintiff had shown

particular diligence in protecting her interests and had taken necessary steps to acquaint herself with the progress of the proceedings. Moreover, the deadline for filing an appeal under Ukrainian law is not brief, which is taken into account in conjunction with other circumstances of the case (Supreme Court of Ukraine, 2024).

In the decision No. 761/37339/19, concerning an application for permission for forced entry into a debtor's home, the SCU emphasized that the execution of a judicial decision is also a sphere regulated by Art. 6, as the implementation of judicial decisions in civil cases is an aspect of the right to a fair trial and one of the procedural guarantees of access to trial, as provided for in this norm. Therefore, the cassation appeal of the private enforcement officer was to be granted (Supreme Court of Ukraine, 2021(a)).

It should be emphasized that any decisions of national courts may come under the scrutiny of the ECtHR, which will assess whether its judgments have been correctly applied in resolving disputes. Therefore, Ukrainian judges must correctly and comprehensively analyze the relevant case-law, as well as verify whether certain Convention's rules can be applied in a specific case, just as the Court does.

To illustrate it, we can cite the ruling of the Supreme Court of Ukraine in case No. 638/5047/21, in which Person 1 filed a lawsuit against the Main Unit of the Pension Fund in the Kharkiv region to establish the amount of salary and to oblige the re-calculation of the pension. The lower court incompletely satisfied the claim, motivating its decision by stating that it was only authorized to verify the legitimacy and accuracy of the decision of a public authority and could not assume the functions belonging to its competence. The decision by the court of appeal was reasoned by the matter that, in accordance with their assigned tasks and functions, the Pension Fund of Ukraine and its departments in districts and cities are public authorities in the sphere of calculating and paying pensions, and disputes arising between the participants in these relations are of a public-law nature, so their resolution falls under the jurisdiction of administrative courts. A dispute regarding an underpaid pension is of a public-law nature, arising from public-law relations involving a state body as a public authority, and therefore should be considered in administrative proceedings (Supreme Court of Ukraine, 2023).

The SCU, citing the case of Golder v. the United Kingdom, established that the "right to a trial" and the "right of access to a court" – specifically, the right to initiate civil proceedings – as a unified and indivisible concept. These rights are not without limits; however, any restrictions must be applied in a manner and to an extent that does not undermine their fundamental essence, as exemplified in the case of Stanev v. Bulgaria. Concurrently, the SCU has observed that the ECtHR has repeatedly ruled against Ukraine for violating Article 6(1) of the ECHR due to jurisdictional disputes among its national courts (Bulanov and Kupchik v. Ukraine; Andriyevska v. Ukraine; etc.).

An analysis of the case materials indicates that when applying to the Dzerzhynskyi District Court of Kharkiv, Person 1 attached to the statement of claim a copy of the ruling of the Kharkiv District Administrative Court, which stated that the dispute over the recognition of the fact of establishing and paying a salary to the plaintiff in a certain amount is not of a public-law nature within the meaning of administrative procedural legislation of Ukraine, as the plaintiff's claims are not connecter to the defense of his rights in the sphere of public-law relations. The jurisdiction of administrative courts does not extend to the

dispute in this part. Thus, the claim to establish the amount of salary shall be considered under civil law procedure.

Under these circumstances, the arguments of Person 1 regarding the conflict of jurisdictions in his lawsuit deserve attention. Therefore, the judges believe that closing the proceedings in the civil case on the plaintiff's similar claims would jeopardize the claimant's rights to access to trial and to effective resolution guaranteed by the Convention, because the incoherence of national courts has created obstacles for the claimant to perform his right to a remedy. Taking the above arguments and the priority of ensuring the principle of legal certainty into account, there are grounds to conclude that considering this matter should be finalized under the civil process regulations (Supreme Court of Ukraine, 2023).

5. Conclusion

Justice in civil proceedings is a complex category that is not limited to the legality and validity of a judicial act. Its integral components also include the integrity and independence of the court, ensuring the equality of the parties, guaranteed access to trial, the right to appeal and cassation, a timely hearing of the case, and the mandatory execution of judicial decisions. At the same time, our state's Euro-integration aspirations and the necessity to put national legislation in line with the European one have made it important for Ukrainian courts, when considering cases, to apply the Convention and protocols thereto, as well as the ECtHR practice, in resolving legal disputes.

In the course of writing this work, we have established that Ukrainian judges actively use the norms of the said international document and the ECtHR case-law to substantiate their decisions, generally studying these materials correctly and comprehensively. However, there are no isolated cases where they examine them superficially, avoiding detailed analysis, whether the articles of the Convention are applicable in a particular case, as the ECHR does, as evidenced by a number of applications to this international judicial body from citizens of Ukraine.

In this regard, national courts need to meticulously and comprehensively establish and investigate all the facts of each dispute and objectively assess the conformity of the application of legal rules. It is also advisable to consider to the current ECHR case-law of the, as it is dynamically developing and may differ from previous positions. The Court itself has repeatedly emphasized that the ECHR is a «living instrument», the interpretation of which must evolve along with societal legal relations. Accordingly, the Court's practice regarding the implementation of its norms is constantly being improved, reflecting modern realities.

In this connection, there is a need for high-quality translation of the Court's judgments, as not all Ukrainian judges have a sufficient level of foreign language proficiency to translate such documents themselves. This work should involve industry-specific translators who understand the character of legal terminology and can ensure an adequate translation whose content will fully correspond to the original. It would also be advisable to establish the publication of annual handbooks (in electronic or printed format) for judges, which would contain relevant ECtHR judgments, because, as already mentioned, the practice of the Court is constantly being transformed and adapted to current realities, so it is very important that the national courts are aware of modern trends in this area.

The training of judges in ECHR practice is also an important part of this process. It should be noted that such classes are regularly organized and implemented by the National School of Judges of Ukraine with the support and participation of international experts and organizations (Councils of Europe, OSCE, etc.). In accordance with the Statute of this organization, all judges are obliged to periodically upgrade their qualifications in the chosen area in the form of seminars, trainings, webinars and other training activities with a view to improving their knowledge and skills, considering respective tendencies in law and international standards of judicial procedure.

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